

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO. 421 OF 2021

Shensing S/o Ishwar Batale

Applicant

Versus

The State of Maharashtra

Respondent

Mr. G.D. Kale, Advocate for the applicant.

Mr. G.O. Wattamwar, APP for respondent/State.

CORAM : M.G. Sewlikar, J.

DATE : 10th June, 2021.

PER COURT :

1. Heard.

2. It is alleged in the First Information Report that on 2nd May, 2020 at 9.00 a.m., informant Shubham, his father Shersing, brother Pravin, mother Jaywantabai and others had been to their field for harvesting the crop of corn. At 10.30 a.m., accused including the applicant obstructed them on the road and prevented from driving tractor by that road. At 10.45 a.m., all the accused persons including the applicant, went to the field of the informant. They were armed with weapons viz., iron pliers (used for cutting the

crop), sticks and chilli powder. Accused Dhanajay delivered a blow of plier on the head of Shersing, the father of the informant. Accused Mersing also delivered a blow of plier on the waist of Shersing. Accused Suresh delivered a blow of plier on the head of Jorsing. The role ascribed to the applicant as per the First Information Report is of throwing chilli powder on the members of the informant's family. Shersing Gabru Batale was admitted to the hospital but he was advised to be taken to Aurangabad for further treatment. Shersing died on the way to Aurangabad. Accordingly, offence under Sections 302, 324, 323, 143, 147, 148, 149, 504 of the Indian Penal Code and Section 135 of the Maharashtra Police Act came to be registered vide C.R. No. 64/2020 at Fardapur Police Station, District Aurangabad.

3. Learned counsel Shri Kale submitted that except allegation of throwing chilli powder on the person of the informant party, no serious allegation is levelled against the applicant. He submitted that there is no allegation against the applicant of assaulting the deceased. He, therefore, submitted that the applicant be released on bail.

4. Learned APP submitted that the applicant used wooden

log and delivered a blow of it to the witnesses. He submitted that there are serious allegations against the applicant and therefore, he should not be released on bail.

5. On perusal of the police papers forwarded by learned APP, it is seen that the allegations as per the First Information Report against the applicant are of throwing chilli powder. First Information Report does not disclose that the applicant had assaulted the deceased. On perusal of the statements of witnesses also, it does not appear that the applicant had assaulted the deceased. A bald allegation is made that the applicant assaulted the witnesses by means of a stick. Even no weapon is recovered from him. In view of this, having considered the role of the applicant in this offence, I am inclined to release the applicant on bail. Hence the following order :-

ORDER

- i) Application is allowed.
- ii) Applicant Shensing S/o Ishwar Batale be released on bail in connection with Crime No. 64/2020 registered with Fardapur Police Station, District Aurangabad for the offences punishable under Sections 302, 324, 323, 143, 147, 148, 149,

504 of Indian Penal code and under Section 135 of Maharashtra Police Act, on furnishing PR Bond of Rs. 25,000/- (Rs. Twenty Five Thousand only) with one solvent surety in the like amount and on condition that he shall not interfere in the investigation, shall not pressurise the witnesses and shall attend the police station as and when called upon by the Investigating Officer to do so.

iii) Application is disposed of.

iv) Hamdast allowed.

(M. G. SEWLIKAR)
Judge