

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

BAIL APPLICATION NO.517 OF 2021

DEVIDAS @ SUDHAKAR SUKHDEO GAWANDE
VERSUS
THE STATE OF MAHARASHTRA

...
Advocate for Applicants : Mr. More P P
APP for Respondent/State : Mr. N.T. Bhagat

...
CORAM : MANGESH S. PATIL, J.

DATE : 22.06.2021

PER COURT :

This is an application under Section 439 of the Code of Criminal Procedure by one of the accused from Crime No.8/2021 registered with Bhokardan Police Station, Bhokardan, District Jalna for the offence punishable under Sections 302, 324, 323, 504, 506, 34, 327 and 201 of the Indian Penal Code after filing of the charge sheet.

2. Shortly stated the allegations from the FIR lodged by the deceased himself are to the effect that on account of some long standing dispute between these distant relations the applicant along with his father assaulted him. The applicant is stated to have hit him on the head with a hoe. He went to the Police Station where from he was referred for medical examination. After taking first aid he lodged the FIR and the offence was registered on the same day.

3. It appears that unfortunately the deceased died of the head injury sustained in the incident. The applicant along with his father is now

being charged for the murder.

4. The learned advocate for the applicant would point out that the deceased has not died immediately. It was a single blow. The applicant was not carrying any weapon. The statements of the witnesses would indicate that even the applicant's father was assaulted by the deceased. It is only by way of apparently some right of private defence that the applicant is alleged to have snatched the hoe from the deceased and given the blow. He would submit that a counter FIR has been lodged by the applicant's father who had sustained as many as three injuries.

5. The learned advocate would submit that the applicant is not a criminal. The incident had taken place on the spur of moment without premeditation. In fact the deceased himself was an aggressor and had assaulted the applicant's father. It is only by way of retaliation that the applicant seems to have given a blow without any intention to kill the deceased. The applicant would abide by any condition. He is not likely to jump the bail since he has a landed property and he is a permanent resident of the Village. The trial is not likely to get over in near future and since the investigation is already complete he may be granted bail.

6. The learned APP submits that there cannot be any dispute about the cause of death. The head injury is clearly attributable to the act of the applicant. The very fact that a single blow was sufficient to cause death is indicative of his intention. Taking into account the animosity between the two sides there is every possibility of escalation. The applicant would

indulged in similar act if he is released on bail.

7. I have carefully gone through the charge-sheet. As can be seen from the postmortem report the deceased has died of a head injury.

8. As is mentioned herein above, the injury is attributed to the applicant who is stated to have snatched a hoe from the deceased himself and assaulted him.

9. Simultaneously, it is also necessary to note that as can be gathered from the statements of the eye witnesses, in fact, the deceased and the father of the applicant had indulged in some fight. Applicant's father had also sustained some injury and the applicant is stated to have arrived there subsequently. Meaning thereby that there was no premeditation. The applicant was not carrying any weapon.

10. Considering all these facts and circumstances, when investigation is already completed and the trial is not likely to get over in near future, by taking necessary precaution to allay the fear being expressed by the prosecution, the applicant deserves to be released on bail.

11. The application is allowed. The applicant be released on bail in connection with Crime No.8/2021 registered with Bhokardan Police Station, Bhokardan, District Jalna for the offence punishable under Sections 302, 324, 323, 504, 506, 34, 327 and 201 of the Indian Penal Code on furnishing personal recognizance for an amount of Rs.50,000/- (Rupees Fifty Thousand only) and furnishing a solvent surety in the like amount subject to the following conditions:

- a) The applicant shall not enter into the limits of Bhokardan Taluka till conclusion of the trial.
- b) He shall not tamper the evidence or influence the witnesses.

12. Bail before the lower court.

(MANGESH S. PATIL, J.)

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