

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

931 BAIL APPLICATION NO.623 OF 2021

**SURESH S/O LAHANU NEHE
VERSUS
THE STATE OF MAHARASHTRA**

WITH

BAIL APPLICATION NO. 624 OF 2021

**KISHOR S/O LAHANU NEHE AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA**

Shri. V. D. Sapkal, Senior Advocate i/b Shri. A. S. Sakhare,
Advocate for the applicants
Shri. V. M. Kangne, APP for the respondent/State

CORAM : M. G. SEWLIKAR, J.

DATED : 31st August, 2021

PER COURT :-

1. All these applications can be disposed of by common order as they arise out of the same crime.
2. Heard.
3. Prosecution case is that there was a dispute

between the informant and the deceased on one hand and the accused persons on the other hand in respect of the land to the extent of 1 acre in survey No. 60 at village Lohagaon Shirat. On 31st December, 2020 the informant and his elder brother Gaurav Kadu had been to the field survey No. 60 for giving fodder to the cattle. At that time accused Amol Nehe and the applicants Kishor Nehe, Vasant Nehe, Suresh Nehe and one Sachin Nehe went there. The informant and deceased objected to ploughing of land by the applicant and other accused. A scuffle ensued between them. Accused Amol was armed with sickle, applicant Kishor, Vasant and Suresh were armed with iron rod and accused Sachin was armed with a hoe. All of them started beating the informant and the deceased. They delivered blows by the weapons which each of them was armed with. Amol delivered a blow of sickle on the palm of the informant, the deceased Gaurav was lying on the floor, accused Sachin delivered a blow of hoe on the head of the deceased Gaurav. Thereafter also the applicants continued to beat the deceased and the informant. Gaurav fell unconscious. Thereafter the informant

and the deceased were taken to the hospital.

4. Initially offence was registered under Section 307 of the Indian Penal Code. Since during the treatment Gaurav died, offence was converted into Section 302 of the Indian Penal Code.

5. Learned Senior counsel Shri. Sapkal submits that the fatal blow was given by Sachin. The applicants are alleged to have beaten the deceased and the informant by means of iron rod. He submits that no recovery was effected from them.

6. Shri. Kangne, learned APP for State submits that the applicant themselves had initiated the quarrel. He submits that the applicant, despite the deceased having fallen unconscious, continued to beat the deceased. Though weapons are not recovered from them, the iron rods were lying at the spot and they were recovered during spot panchnama. He submits that there is cogent evidence against the applicants which disentitles them to be released

on bail.

7. On perusal of the charge-sheet and the post-mortem report it reveals that the fatal blow was given by the accused Sacin. Post-mortem report shows that the cause of death to be head injury. The deceased had sustained contusions over the body. Weapons are not recovered from the applicants but they were recovered from the spot during preparation of spot panchnama. The role ascribed to the applicants is a causing contusions. It does not appear that any of the applicants had delivered any blow on any vital part of the deceased. Applicants do not have criminal antecedents. There is nothing on record to show that they would commit similar offence again. Having regard to the nature of allegations against the applicants and the nature of evidence collected by the prosecution, and having regard to the pandemic situation created by COVID-19 and that trial is not likely to be over in near future, I deem it appropriate to release the applicants on bail. Hence, the order.

ORDER

1. Applications are allowed.
2. Each of the applicants be released on bail on their furnishing PR bond of Rs. 30,000/- (Rupees Thirty Thousand only) with one solvent surety in the like amount in connection with CR No. 2 of 2021 under Sections 302, 307, 326, 143, 147, 148, 149, 504 and 506 of the Indian Penal Code registered with Loni Police Station, Ahmednagar.
3. Applications are disposed of.

[M. G. SEWLIKAR, J.]

ssp