

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO. 649 OF 2021

Sheshrao Namdeo Wahul

Applicant

Versus

The State of Maharashtra

Respondent

Mr. S.K. Ashpak Taher Patel, Advocate for the applicant.

Mr. V.M. Kagne, APP for respondent/State.

CORAM : M.G. SEWLIKAR, J.

DATE : 21st October, 2021.

PER COURT :

1. This is an application under Section 439 of the Code of Criminal Procedure for releasing the applicant on bail on connection with Crime No. 0417/2020 registered with MIDC CIDCO Police Station, Dist. Aurangabad, for the offences punishable under Section 302, 323, 504 read with section 34 of the Indian Penal Code.

2. Allegations in the First Information Report are that the deceased was an auto rickshaw driver. Informant is his son. Both of them had carried passengers in their auto rickshaw to a place in the vicinity of the residence of the applicant. It is alleged in the First

Information Report that after dropping the passengers, applicant, who is the husband of paternal aunt of the informant, caught hold of the deceased and accused Akash caused injury on the cheek of the deceased by means of a screw driver. Accused Bhaulal Sable, cousin of the deceased, assaulted the deceased on his head by means of a wooden rod. It is alleged that the applicant assaulted the informant by fists and kick blows. The deceased was shifted to Government Medical College and Hospital, Aurangabad, where he was declared dead on arrival. On these allegations, First Information Report came to be registered.

3. Charge-sheet is filed. On perusal of the charge-sheet it is seen that the applicant had held the deceased and the juvenile accused Akash delivered a blow of screw driver on the cheek of the deceased. Soon thereafter, Bhaulal Sable assaulted the deceased on his head by means of a wooden rod.

4. Learned APP Shri Kagne submits that the role of the applicant is more serious than the role of the accused who is released on bail. He submits that the applicant had held the

deceased and thereafter assault was made by means of a screw driver.

5. From First Information Report and the statement of the witnesses it is not clear as to whether the applicant had held the deceased when accused Bhaulal Sable delivered a fatal blow. Having regard to the role of the applicant and the fact that trial is not likely to commence in immediate future on account of pandemic condition arising out of Covid -19, I am inclined to release the applicant on bail. Hence the following order :-

ORDER

- i) Application is allowed.
- ii) Applicant be released on PR Bond of Rs.50,000/- (Rs. Fifty Thousand) with one solvent surety in the like amount in connection with Crime No. 0417/2020 registered at MIDC CIDCO Police Station, Dist. Aurangabad, for the offences punishable under Section 302, 323, 504 read with Section 34 of the Indian Penal Code.
- iii) Application is disposed of.

iv) iv) It is clarified that the observations made in the above order are restricted to the decision of this application only and the trial Court shall not get influenced by the same and can come to its independent conclusion during trial.

(M. G. SEWLIKAR)
Judge

dyb