

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

44 BAIL APPLICATION NO.728 OF 2021

Mahipal Ramji Valvi
Age: 50 years, Occu.: Agriculture,
R/o. Ganesh Budhawal,
Taluka Taloda, Dist.Nandurbar. ..Applicant

VERSUS

The State of Maharashtra ..Respondent

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Advocate for Applicant : Shri Amit S. Savale
APP for Respondent : Shri S.W.Munde

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CORAM : M.G.SEWLIKAR, J.

DATE: 25th October, 2021

PER COURT:-

1. This is an application under Section 439 of the Code of Criminal Procedure for releasing the applicant on bail in connection with Crime No.1035 of 2020, registered with Taloda Police Station, Dist.Nandurbar, under Sections 302, 341, 504, 506 read with Section 34 of the Indian Penal Code.

2. From the allegations in the FIR, it appears that on 28th November, 2020 between 09:00 to 09:15 p.m., informant had gone to the hand-pump for bringing drinking water. At that time, accused Ajay Mahipal Valvi closed the gate. He was armed with an axe. There was verbal altercation between informant and accused Ajay. At that time, applicant was sitting in the

compound on a cot. On hearing commotion, deceased, who was the son of the informant came there. Verbal altercation followed between the deceased Akshay and applicant. Thereupon, accused Ajay hit in the abdomen of the deceased by means of handle of axe. Soon thereafter, applicant took the axe from accused Ajay and delivered a blow of handle of axe in the abdomen of the deceased. The deceased was shifted to the hospital where he was pronounced dead.

3. Heard Shri A.S.Savale, learned counsel for the applicant and Shri S.W.Munde, learned APP for the respondent-State.

4. Shri Savale, learned counsel for the applicant submits that applicant was sitting on the cot in the compound. Altercation was going on between the informant and the accused Ajay. Soon thereafter, the deceased came there and altercation started between the deceased and accused Ajay. He submits that the incident occurred in the heat of passion and on the spur of the moment. Applicant had no intention to cause death of the deceased.

5. Shri Munde, learned APP for the respondent-State objected to release the applicant on bail.

6. Post mortem report shows that cause of death was blunt

trauma to abdomen. From the tenor of the FIR, it appears that the incident took place on the spur of the moment and in the heat of passion. Nothing is brought on record to show that applicant and the deceased were on inimical terms. Charge-sheet is filed. Applicant does not have criminal antecedents. He will be available for trial as he is permanent residence of village Ganesh Budhawal, Tq.Taloda, Dist.Nandurbar. In this view of the matter, following order is passed:

ORDER

- i) Bail Application is allowed.
- ii) Applicant be released on P.R.Bond of Rs.30,000/- (Rs. Thirty thousand only) with one solvent surety in the like amount, in connection with Crime No.1035 of 2020, registered with Taloda Police Station, Dist.Nandurbar, under Sections 302, 341, 504, 506 read with Section 34 of the Indian Penal Code.
- iii) Bail Application is disposed of.
- 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**