

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO. 769 OF 2021

1. Raju Raosaheb Khile
 2. Parasram Raosaheb Khile
- Applicants

Versus

The State of Maharashtra

Respondent

Mr. N.V. Gaware, Advocate for the applicants.
Mr. S.P. Sonpawale, APP for respondent/State.

CORAM : M.G. SEWLIKAR, J.

DATE : 23rd August, 2021.

PER COURT :

1. This is an application under Section 439 of the Code of Criminal Procedure for releasing the applicants on bail.

2. Prosecution case in nutshell is that the deceased Sanjay Walwale was the son-in-law of the informant. On 8th June, 2020, deceased Sanjay and his brother Dada Khile were sitting together. At that time, the deceased Sanjay made a call to one Rameshwar Ghule. When they were talking on phone, Dada Khile said to deceased Sanjay as to whether deceased Sanjay had guts to go to his inlaws place. Rameshwar misunderstood that Dada Khile had made these

comments at Rameshwar himself. Thereupon applicants No. 1 and 2 along with Suresh Khile, Kalyan Khile and Yogesh Khile had said that Dada Khile and Sanjay Walwale should be in control. Rameshwar had called upon the informant and told him to request to his brother to behave properly. On these counts, applicants No. 1 and 2 and other accused beat deceased Sanjay by means of stones. Applicants and other accused ran away from the spot of the incident. When the informant and other persons gathered there they found that the deceased was not more. On these allegations, First Information Report came to be lodged under Section 302, 143, 147, 148, 149 of the Indian Penal Code vide C.R.No. 0178/2020 with Ashti Police Station, Dist. Beed.

3. Heard Shri Gaware, learned counsel for the applicants and Shri Sonpawale, learned APP for the State.

4. Learned counsel Shri Gaware submitted that there was no previous enmity between the applicants and the deceased. They had no intention to kill the deceased. They wanted to teach a lesson to the deceased. He, therefore, prayed for releasing the applicants on bail.

5. Learned APP submitted that stones and sticks were used to beat the deceased. This clearly shows that they had an intention to murder the deceased. He, therefore, prayed for rejection of the application.

6. Post Mortem report shows that cause of death Cardiorespiratory failure due to Haemorrhagic shock due to liver injury, heart injury and lung injury. Admittedly, there was no enmity between the deceased and the applicants. Statements of witnesses show that the incident took place because of the mis-understanding created by Dada Khile because of his utterances. The statement of witness Usha Khile shows that Rameshwar had said to her that he had asked his men to assault Dada Khile but deceased unnecessarily intervened. Therefore, from these statements, it is clear that the applicants had no intention to kill the deceased. Even they had no intention to kill Dada Khile.

7. Considering the pandemic situation created due to Covid-19 and also the fact that the applicants have their roots in the village and that they will be available for trial, I am, therefore, inclined to release the applicants on bail. Hence the following

order :-

ORDER

- i) Application is allowed.
- ii) Applicant No. 1 – Raju Raosaheb Khile and Applicant No. 2 – Parasram Raosaheb Khile be released on PR Bond of Rs. 50,000/- (Rs. Fifty Thousand only) each with one solvent surety each in the like amount in connection with Crime No. 0718/2020 registered at Ashti Police Station, Dist. Beed, for the offences punishable under Sections 302, 143, 147, 148, 149 of the Indian Penal Code.
- iii) Application is disposed of.

(M. G. SEWLIKAR)
Judge

dyb