

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

19 BAIL APPLICATION NO.781 OF 2021

SHEKNATH VITTHAL BHALERAO
VERSUS
THE STATE OF MAHARASHTRA

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Advocate for Applicant : Mr. Magre Sunil G.
APP for Respondents/State : Mr. S.P. Sonpawale

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CORAM : M.G. SEWLIKAR, J.
DATE : 20th September, 2021

PC.:-

This is an application under Section 439 of the Cr.P.C. for releasing the applicant on bail in connection with Crime No.33 of 2021 under Section 302, 307 read with Section 34 of the I.P.C. registered with Chawni Police Station, Aurangabad.

2. Prosecution case is that on 26.01.2021 there was a quarrel between one Manoj and accused Jaykant Bhalerao. This quarrel was solved by the deceased Mayur. Thereafter, the deceased was on his way to the house of his paternal aunt Muktabai. When he reached Amin square he noticed that applicant, Jaykant Bhalerao, Hritik Awhad, Umesh Awhad were following him. Accused-Jaykant Bhalerao was armed with a knife. Accused Jaykant Bhalerao stabbed in his abdomen on the waist and also on the right arm. The other

accused including the applicant beat him with kicks and fist blows. The deceased was immediately shifted to the hospital. On 28.01.2021 dying declaration of the deceased was recorded. In the dying declaration the deceased narrated the aforesaid facts.

3. Heard Shri S.G. Magre learned counsel for the applicant and Shri Sonpawale learned APP for the State.

4. Shri Magre submits that the entire evidence is against the accused Jaykant Bhalerao. Role ascribed to the applicant is that of beating the deceased by kicks and fist blows. *Post mortem* report does not indicate any such injury on the person of the deceased. He submits that this is the first offence of the applicant. He does not have any criminal history.

5. Learned APP submits that the applicant assaulted the deceased without any rhyme or reason. The deceased had solved the quarrel between the accused Jaykant Bhalerao and the said Manoj. He submitted that there is sufficient evidence against the applicant and, therefore, he should not be released on bail.

6. On perusal of the dying declaration and the statement of the witness, it reveals that the deceased had ascribed entire role to Jaykant Bhalerao. Jaykant Bhalerao was armed with a knife. He delivered blows of

the knife to the deceased at three places. The only role the applicant has been ascribed is that of giving kicks and fist blows to the deceased. Post mortem report does not indicate that the deceased had any abrasions or contusions. Having regard to the role played by the applicant in the alleged offence, the applicant is entitled to be released on bail. Moreover, the applicant does not have any criminal history. He will be available for trial as he is the permanent resident of Aurangabad. Since the charge-sheet is filed, there is no question of tampering with the prosecution evidence. In this view of the matter, case for bail is made out. Hence, the following order is passed:

ORDER

- I) Application is allowed.
- II) Applicant be released on PR bond of Rs.25,000/- with one solvent surety in the like amount, in connection with Crime No.33 of 2021 under Section 302, 307 read with Section 34 of the I.P.C. registered with Chawni Police Station, District Aurangabad. (RCC No. 1323/2021)
- III) These observations are made only for the disposal of this application and the learned trial Court shall not get influenced by these observations and can come to its independent conclusion during trial.

[M.G. SEWLIKAR, J.]