

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

**BAIL APPLICATION NO.779 OF 2021**

1. Ananda S/o. Namdeo Bhosale  
Age: 68 years, Occu.: Agril.
  2. Shrikant Sahebrao Bhosale  
Age: 22 years, Occu.: Agril,  
Both R/o. Thugaon,  
Tq. & Dist.Nanded.
- ..Applicants  
(Original Accused No.2 and 5)

VERSUS

- . The State of Maharashtra,  
Through Limbgaon Police Station,  
Tq. & Dist.Nanded.
- ..Respondent

...  
WITH

**CRIMINAL APPLICATION NO.2755 of 2021  
IN BA/779/2021**

...  
Advocate for Applicants in BA/779/2021 : Shri Mahesh P. Kale  
APP for Respondent-State : Shri G.O.Wattamwar  
Advocate for Applicant in APPL/2755/2021 : Smt.A.S.Jadhav  
...

**CORAM : M.G.SEWLIKAR, J.**

**RESERVED ON : 2<sup>nd</sup> December, 2021  
PRONOUNCED ON : 16<sup>th</sup> December, 2021**

**ORDER :-**

1. This is an application under Section 439 of the Code of Criminal Procedure for releasing applicants on bail in connection with Crime No.76 of 2017, registered with Limbgaon Police

Station, Dist.Nanded, under Sections 302, 307, 326, 324, 323, 143, 147, 148, 149 of the Indian Penal Code, under Section 4 read with Section 25 of the Arms Act and under Section 135 of the Maharashtra Police Act.

2. Facts in brief are that the informant lodged the report alleging that the informant and his family members have land dispute with accused Digambar Namdeo Bhosale, Sahebrao Namdeo Bhosale and their other family members since 2012. It is further alleged that on 23<sup>rd</sup> September 2017, informant, his uncle Ananda Umaji Bhosale (deceased), cousin Shyam Ananda Bhosale (deceased), uncle Shankar Umaji Bhosale, Devrao Sakharam Bhosale, aunt Prayagbai Devrao Bhosale, Bapnabai Shankar Bhosale, sister-in-law Sheela Shyam Bhosale were harvesting crop of Kadol near Gut No.119. At 10:30 to 11:30 a.m., Sahebrao Namdeo Bhosale, Ananda Namdeo Bhosale, Gajanan Madhavrao Bhosale, Avadhut Pandurang Bhosale, Shrikant Sahebrao Bhosale, Ram Yashwant Bhosale, Laxman Madhavrao Bhosale, Manik Namdeo Bhosale, Digambar Namdeo Bhosale, Vithal Manik Bhosale, Laxman Mohanrao Bhosale, Raosaheb Balurao Bhosale, Tukaram Manik Bhosale, Datta @ Balali Bhosale, Santosh Yashwantrao Bhosale, Namdeo Subhanji Bhosale, Shivaji Namdeo Bhosale, Bhagwat Digambar Bhosale,

Gangadhar Ananda Bhosale and Ashok Mohanrao Bhosale armed with sticks, axe, katti, sword came to their field. Accused Saheb Namdeorao Bhosale said to them that civil dispute was pending in the Court between them and that the informant and his family members should surrender their rights in land Gut No.119 else the informant and his family members would be done away with. Thereupon, Shyam Ananda Bhosale (deceased) said to accused Saheb Namdeorao Bhosale that land Gut No.119 belonged to him and his family. Thereupon, Sahebrao Namdeo Bhosale and Shrikant Sahebrao Bhosale assaulted deceased Shyam Ananda Bhosale by means of a sword. When Ananda Umaji Bhosale (deceased) came to his rescue, accused Digambar Namdeo Bhosale assaulted him by axe. Accused Laxman Madhavrao Bhosale, applicant Ananda Namdeo Bhosale and accused Ram Yashwant Bhosale assaulted deceased Ananda Umaji Bhosale with sticks. Accused Manika Bhosale and Tukaram Manika Bhosale assaulted informant on his head by means of a sword. When Shankar Umaji and Devrao Babarao Bhosale came to their rescue, applicants alongwith 18 accused assaulted them by means of sticks, katti, axe and sword. Cousin of the informant by the name of Maroti Devrao Bhosale, nephew by the name of Subham and Shiva came there running. Applicants and other accused beat them too. Injured were

brought to the hospital. On examination, Anandrao Umaji Bhosale was declared dead and Shyam Anandrao Bhosale died during treatment.

3. I have heard Shri M.P.Kale, learned counsel for the applicants, Shri G.O.Wattamwar, learned APP for the respondent-State and Smt.A.S.Jadhav, learned counsel for applicant in Criminal Application No.2755 of 2021 assisting APP.

4. Shri Kale, learned counsel for the applicants submitted that the informant and his family members assaulted the applicants and their family members by means of sticks, axe and knife. He submitted that on the report of the applicant No.1 - Ananda Namdeo Bhosale Crime No.77 of 2017 under Sections 307, 337, 325, 143, 147, 148, 149 of the Indian Penal Code, under Section 4 read with Section 25 of the Arms Act and under Section 135 of the Maharashtra Police Act has been registered. He submitted that applicants and their family members also sustained grievous injuries and they were also admitted in the hospital. He submitted that other accused by the name of Manikrao Namdeo Bhosale and Tukaram Manikrao Bhosale have been released on bail by this Court in Bail Application No.129 of 2020. Similarly, other accused Laxman Madhavrao Bhosale and Ram

Yashwantrao Bhosale have been released on bail by this Court in Bail Application No.1372 of 2018. He submitted that role of applicant No.1 – Ananda Namdeo Bhosale is that of assaulting the deceased Ananda Umaji Bhosale by means of a stick. So far as applicant No.2 Shrikant Sahebrao Bhosale is concerned, he is accused of assaulting the deceased by means of a sword. He submitted that accused Ram Yashwant Bhosale and Laxman Madhavrao Bhosale have been attributed with similar role i.e. they assaulted the deceased Ananda Umaji Bosale by means of sticks. He submitted that on the ground of parity the applicants are entitled to be released on bail. He further submitted that applicants have filed RCS No.1209 of 2012 in which temporary injunction has been granted in respect of land Gut No.119 against the informant party. He submitted that therefore informant had grudge against the applicants and other family members and therefore it was the informant and his family members who launched assault on the applicants and their family members. He submitted that applicants are behind bars for almost four years. He submitted that there is change in circumstance as some accused have been released on bail subsequently. Trial is not likely to conclude in the near future. He, therefore, prayed for releasing the applicants on bail. He submitted that applicant No.1 - Ananda Namdeo Bhosale is 65

years of age. Considering the age, applicant No.1 be released on bail.

5. Shri Wattamwar, learned APP for the respondent-State and Smt.Jadhav, learned counsel for applicant in Criminal Application No.2755 of 2021 submitted that parity is not available to the applicants. Both of them submitted that while considering application for bail, gravity of the offence is one of the significant ingredients. They submitted that in this crime two persons have died; one of them was 65 years of age. They submitted that this Court in Bail Application No.938 of 2018 declined to release applicant No.1 on bail. They submitted that there is no change in circumstance. Applicants assaulted the deceased by means of sticks. They submitted that deceased Ananda Umaji Bhosale had 22 injuries and Shyam Ananda Bhosale had 24 injuries. They submitted that cross FIR shows that applicants and their family members did not sustain serious injuries. All of them sustained simple injuries. This shows the gravity of the offence. They, therefore, submitted that parity is not available to the applicants. They placed reliance on the case of *Ramesh Bhavan Rathod Vs. Vishanbhai Hirabhai Makwana Makwana (Koli) and Ors.* [MANU/SC/0298/2021].

6. The cross FIR has been filed by applicant No.1 - Ananda Namdeo Bhosale indicating his age as 60 years. This FIR was lodged on 25<sup>th</sup> September, 2017. It is alleged in this FIR that in the year 2003, applicant No.1 – Ananda Namdeo Bhosale and his family had purchased 12 Acres land from Madhavrao Baliram Bhosale from various Gut Numbers. Thereafter, Devrao Babarao Bhosale, Shankar Umaji Bhosale and Ananda Umaji Bhosale picked up a quarrel over landed property purchased by applicant No.1 and his family members. Five to six cases are pending in the Civil Court. It is further alleged in the FIR that on 23<sup>rd</sup> September, 2017 at 10:00 to 10:30 a.m. for bringing Kadol, he, his brother Digambar and his nephew Vithal had gone to the field and started cutting Kadol. At that time, members of informant party i.e. Devrao Babarao Bhosale, Maruti Devrao Bhosale, Rangnath Devrao Bhosale, Parasram Devrao Bhosale, Prayagbai Devrao Bhosale, Shankar Umaji Bhosale, Jamanabai Shankar Bhosale, Datta Shankar Bhosale, Ananda Umaji Bhosale, Shyamrao Ananda Bhosale, Satish Sambhaji Bhosale, Truck Driver Datta and his wife were hiding themselves behind Kadol. They suddenly started pelting stones. They assaulted applicants and their family members by stick, axe, katti and iron rod. Applicant No.1 was assaulted by Maruti, Prakash and Satish. Prakash stabbed applicant No.1 – Ananda Namdeo Bhosale in

the back and Maruti gave two blows of rod on his stomach. Accused Satish assaulted him on his head. He fell unconscious and brought to the hospital. On these allegations, FIR No.77 of 2017 under Sections 307, 337, 325, 143, 147, 148, 149 of the Indian Penal Code, under Section 4 read with Section 25 of the Arms Act and under Section 135 of the Maharashtra Police Act came to be registered.

7. It is pertinent to note that applicant party was 20 in number and informant party was 18 in number. No death is reported from the side of the applicant party.

8. Applicants and their family members alleged to have caused death of two persons by the name of Ananda Umaji Bhosale and Shyam Ananda Bhosale. Deceased Ananda had 22 injuries. Cause of death is "head injury with blunt trauma to chest". Number of Injured persons from informant side were ten. They were Devrao Babarao Bhosale, Satish Sambhaji Bhosale, Maruti Devrao Bhosale, Shankar Umaji Bhosale, Manjulabai Devrao Bhosale, Bayanabai Shankarrao Bhosale, Sheela Shankarrao Bhosale, Seema Dattrao Bhosale, Shubham Shyamrao Bhosale, Suraj Shyamrao Bhosale. As against this, injured from the side of applicants were only three. They were

Anandrao Namdeo Bhosale, Digambar Namdeo Bhosale and Vitthal Manikrao Bhosale. Weapons recovered from informant side were one iron rod from Maruti Devrao Bhosale, one knife from Prakash Ananda Bhosale, one katti from Rangnath Devrao Bhosale, one stick from Parasram Bhosale, one stick from Satish Bhosale and one rod from Datta Shankar Bhosale. Whereas the weapon recovered from the accused were swords. Sword is not a weapon which is commonly found with agriculturists. Iron rod, stick are the weapons generally found with the agriculturists. Therefore, *prima-facie* it appears that accused applicants had gone to the spot with full preparation. It is pertinent to note that sword has been recovered from applicant No.2. He is alleged to have delivered a blow of sword to Shyam Ananda Bhosale.

9. So far as applicant No.1 is concerned, in the FIR the role attributed to him is assault by stick on the head of deceased Ananda Umaji Bhosale. It is true that accused Ram Yashwantrao Bhosale and Laxman Madhavrao Bhosale were also attributed the same role. However, this Court in Bail Application No.938 of 2018 had rejected the application of applicant No.1. But this Court in Bail Application No.1372 of 2018 released the accused Laxman Madhavrao Bhosale and Ram Yashwantrao Bhosale who

had similar role as that of accused No.1. The persons who assaulted the deceased Ananda Umaji Bhosale, as per the FIR and statements of witnesses, are Digambar Namdeo Bhosale, Laxman Madhavrao Bhosale, Ananda Namdeo Bhosale and Ram Yashwant Bhosale. Out of them, Digambar Namdeo Bhosale assaulted the deceased by means of an axe. Accused Laxman Madhavrao Bhosale, Ram Yashwant Bhosale and applicant No.1 Ananda Namdeo Bhosale assaulted the deceased Ananda Umaji Bhosale by means of sticks. He had 22 injuries. Out of them, he had fractures at three places. Only four persons assaulted the deceased and one of them is the applicant No.1. Having considered the role of the accused applicant No.1, it appears that he also delivered a fatal blow to the deceased. In this view of the matter, I am not inclined to release the applicants on bail. Hence, the order.

**ORDER**

- (i) Bail Application is rejected.
- (ii) Criminal Application No.2755 of 2021 for assist to Public Prosecutor is allowed and disposed of.
- (iii) 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