

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

919 BAIL APPLICATION NO.837 OF 2021

**AZARUDDIN @ BHUTPALIT SHAIKH HUSNODDIN @ BHIKAN
VERSUS
THE STATE OF MAHARASHTRA**

Shri. S. S. Jadhav, Advocate for the applicant
Shri. P. G. Borade, APP for the respondent/State

**CORAM : M. G. SEWLIKAR, J.
DATED : 13th OCTOBER, 2021**

PER COURT :-

1. Heard.
2. Learned counsel Shri. Jadhav for the applicant submits that the deceased and the applicant were knowing each other. They had no enmity. He submits that from the FIR it appears that the parents of the deceased received a telephonic call about the deceased lying in injured condition at godown of the factory new Janta tent house. He submits that there are statements of eye witnesses which show that the deceased was drunk and in that inebriated state abused the applicant. The applicant got annoyed, he beat the deceased with stone, went to the warehouse came back with

pipe and beat the deceased. He submits that from the tenor of the FIR and the statements of the witnesses it is clear that the incident took place on the spur of moment and in the heat of passion.

3. Learned APP Shri. Borade submits that the applicant used stone in the commission of the offence, he went to the warehouse and came back with a pipe and delivered a blow of it to the deceased. He submits that this chronology of events shows the seriousness of the offence.

4. Statement of the witness Paturkar shows that the deceased had gone to a hotel where the applicant was already there. His statement further shows that the deceased abused the applicant in filthy language because of which the applicant lost self control and beat the deceased by means of stone. He went to the warehouse came back with pipe and assaulted the deceased. Similar are the statements of the other eye witnesses.

5. Charge-sheet is filed. There is nothing on record to show that the assault was premeditated or that there was enmity between the applicant and the deceased owing to which the deceased was assaulted. In the absence of all this it can be said that the incident took place on the spur of moment and in the heat of passion. There are no criminal antecedents. Only offence under Sections 294, 323, 504, 34 of the Indian Penal Code and under Sections 3 and 4 of the Maharashtra Medicare Service Persons and Medicare Service Institutions (Prevention of Violence and Damage or Loss to Property) Act, 2010 are registered against the applicant. Having regard to this, it cannot be said that applicant has any previous record of commission of similar offence. There is nothing on record to show that the applicant will abscond and will not be available for trial. Having regard to this, I am inclined to release the applicant on bail. Hence the order.

ORDER

1. Application is allowed.
2. Applicant be released on bail on his furnishing PR bond of Rs. 25,000/- (Rupees Twenty Five Thousand only)

with one solvent surety in the like amount in connection with CR No. 18 of 2021 under Sections 302 and 504 of the Indian Penal Code registered with Jalgaon City Police Station, Jalgaon.

3. Application is disposed of.

4. 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, J.]

ssp