

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

916 BAIL APPLICATION NO.871 OF 2021

**VINAYAK KISHOR TARTE
VERSUS
THE STATE OF MAHARASHTRA**

WITH

BAIL APPLICATION NO. 882 OF 2021

**SACHIN BALKRUSHN BANKAR
VERSUS
THE STATE OF MAHARASHTRA**

Shri. A. M. Gaikwad, Advocate h/f Shri. N. V. Gaware,
Advocate for the applicants
Shri. S. W. Munde, APP for the respondent/State

CORAM : M. G. SEWLIKAR, J.

DATED : 3rd DECEMBER, 2021

PER COURT :-

1. Both these applications can be disposed of by common order as they arise out of the same crime.
2. Prosecution story in brief is that the deceased Rahul Jejurkar was the uncle of Nikita Pravin Bankar. Pravin

Bankar is the husband of Nikita Bankar. Informant Shyam is the cousin of Nikita Bankar. Accused Pravin Bankar was nurturing a suspicion that his wife Nikita and deceased Rahul Jejurkar had illicit relations. On 10th January, 2021 accused Pravin Bankar, deceased Rahul and informant Shaym were drinking liquor in the ground near Rahata Court. Accused Pravin, Shyam and Rahul started drinking liquor. Accused Pravin picked up quarrel with Rahul because of suspicion that Rahul had illicit relations with Nikita. He started beating Rahul with wooden rod. Accused Pravin also assaulted informant Shyam. Both Rahul and Shyam started running towards highway. At that time accused Sachin came there. On the instigation of accused Pravin, Sachin also started beating Shyam and Rahul. Rahul had sustained injury on his right eye. Pravin, thereafter, called two persons. Those two unknown persons came to the spot on motorcycle. One of them beat the informant and Rahul by means of wooden rod. On the way back home, Rahul said that they would not divulge true incident to the family members as a girl was involved in it. A little while later, Rahul started feeling

unwell, therefore, he was admitted in Game Hospital, Sakuri. Doctors in Game Hospital referred him to Super Hospital, Shirdi. During treatment Rahul passed away.

3. FIR came to be lodged on the basis of which offence under Sections 302, 324, 504, 506, 34 of the Indian Penal Code came to be registered.

4. Heard Shri. Gaikwad, learned counsel for the applicants and Shri. Munde, learned APP for the respondent/ State.

5. Learned counsel Shri. Gaikwad submits that accidental death has been given a colour of murder by the informant. A.D. was registered mentioning therein that it was an accident. While admitting the deceased Rahul in the hospital, history was given as accidental death.

6. Learned APP Shri. Munde submits that in the FIR itself there is a mention that all the three i.e. Shaym, Rahul and Pravin had decided amongst themselves that they would

not divulge true incident to any one as a girl was involved in it. He submits that this explanation answers as to why history of accidental death was given. He submits that Pravin Bankar had a grudge against Rahul as Pravin suspected that Rahul had illicit relations with wife of Pravin. He submits that applicants had the intention to commit murder of the deceased.

7. On perusal of the charge-sheet it is seen that both Shyam and Rahul were brought to the hospital by one Ravi Pawar. Statement of Dr. Radha Yogesh Game has been recorded which shows that on 10th January, 2021 at 8.50 p.m. a tractor driver by the name of Ravi Pawar had brought informant Shyam and Rahul to the hospital stating that they were found on the road in injured condition. Dr. Game on examining both of them referred them to Super Hospital, Shirdi. Medical papers of Saibaba Hospital show that history given was dash given by four wheeler followed by assault by unknown persons. Therefore, the explanation given in the FIR runs contrary to the record in Super Hospital. Even if it

is accepted for the sake of argument that the deceased sustained injuries in the quarrel, the allegations in the FIR show that all the three viz., Pravin Bankar, deceased Rahul and Shaym-informant were drinking liquor. All of a sudden Pravin started beating the informant and Rahul. Thus, there was no premeditation and in the heat of passion the incident took place. There is no nothing on record to show that accused Pravin Bankar was carrying wooden rod with him. Applicants do not have criminal antecedents. They will be available for trial. In this view of the matter, I am inclined to release the applicants on bail. Hence the order.

ORDER

1. Applications are allowed.
2. Each of the applicants be released on bail on their 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. 0011 of 2021 under Sections 302, 324, 504, 506, 34 of the Indian Penal Code registered with Rahata Police Station, Dist. Ahmednagar.

3. 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.

4. Applications are disposed of.

[M. G. SEWLIKAR, J.]

ssp