

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO. 898 OF 2021

Shankar Changdev Dange

Applicant

Versus

The State of Maharashtra

Respondent

Mr. Z.H. Farooqui, Advocate holding for Mr. N.V. Gaware, Advocate for the applicant.

Mr. S.D. Ghayal, APP for respondent/State.

CORAM : M.G. SEWLIKAR, J.

DATE : 2nd December, 2021.

PER COURT :

1. This is an application under Section 439 of the Code of Criminal Procedure for releasing the applicant on bail in connection with Crime No. 0755/2020 registered with Shirdi Police Station, Dist. Ahmednagar, for the offences punishable under Sections 302, 307, 504 read with Section 34 of the Indian Penal Code.

2. Prosecution case in brief is that one Shiva Rahane had financial transaction with the applicant. He lent some amount to the applicant. Informant was trying to meddle in the financial

transaction between the applicant and Shiva Rahane. Thereafter, informant and Yogesh Dawange decided to go to the residence of the applicant for pacifying the matter. Accordingly, they went to the house of the applicant. Thereafter father of the applicant by the name Changdev and his brother by the name of Amol came there. They were hiding the weapons. They suddenly attacked the informant, Santosh Khaladkar and Yogesh Dawange. During the incident, Changdev Dange stabbed in the abdomen of the informant but it was intercepted by the informant by his hand. Applicant assaulted Yogesh by means of a bracelet called 'Kada'. Yogesh Dawange was taken to the hospital by informant and Santosh Khaladkar. Doctor declared Yogesh dead on arrival. Accordingly, First Information Report came to be lodged on the basis of which offence as aforesaid came to be registered.

3. Applicant has also filed First Information Report No. 756/2020 in which he has alleged that the informant and two others had assaulted the applicant.

4. From the two First Information Reports, the position that emerges is that informant along with Santosh Khaladkar and Yogesh

Dawange (deceased) had gone to the house of the applicant. There was a free fight amongst all these four persons including father of the applicant by name Changdev and his brother Amol. Informant and Santosh are the persons who had initiated the quarrel. Assault was lodged by applicant and his brother and father. Having regard to the circumstances in which the incident took place, it can be said that applicant had by way of right of private defence assaulted the informant and the deceased. Whether he had exceeded the right of private defence would be considered during trial. Moreover, applicant was not armed with any weapon but he assaulted by means of a 'Kada'. In this view of the matter, having regard to the circumstances in which the incident took place, I am inclined to release the applicant on bail. There are no criminal antecedents against the applicant. This is his first offence. Nothing is brought on record to indicate that applicant will not be available for trial. Hence the following order :-

ORDER

- i) Application is allowed.
- ii) Applicant be released on PR Bond of

Rs. 15,000/- (Rs.Fifteen Thousand only) with one solvent surety in the like amount in connection with Crime No. 0755/2020 registered with Shirdi Police Station, Dist. Ahmednagar, for the offences punishable under Sections 302, 307, 504 read with Section 34 of the Indian Penal Code.

iii) Application is disposed of.

iv) 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