

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

932 BAIL APPLICATION NO.955 OF 2021

Pratik s/o Vishnu Adhav
Age: 27 years, Occu.: Education,
R/o. Gaothan Mahegaon,
Near Water Tank,
Mahegaon, Tq. & Dist.Ahmednagar.

..Applicant
(Orig. accused)

VERSUS

The States of Maharashtra,
Through Police Station Officer,
Rahuri Police Station,
Tq.Rahuri, Dist.Ahmednagar.

..Respondent

...
Advocate for Applicant : Shri Rahul R. Karpe
APP for Respondent : Shri V.M.Kagne

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

DATE: 14th October, 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.289 of 2021, registered with Rahuri Police Station, Dist.Ahmednagar, under Sections 302 read with Section 34 of the Indian Penal Code.

2. Both the deceased and the informant are the uncles of the applicant. The deceased and the informant having

lands adjacent to each other. There is dispute on account of access to their respective lands.

3. On the date of the incident i.e. 6th April, 2021 at 03:30 p.m., the deceased was connecting the pipes for taking water from the land of the informant. At that time, Vishnu Punjahari Adhav and the applicant went there and they objected for taking the water by the deceased from their fields. The applicant and his father accused No.2 started abusing and beating the deceased. Applicant delivered a blow of spade on the chest of the deceased. The deceased sustained injuries on his eye and he was bleeding from mouth. The deceased was complaining of chest pain. The deceased was shifted to the hospital of Dr.Kusalkar at Rahuri. The deceased from there was shifted to Noble Hospital, Ahmednagar. In the Noble Hospital at Ahmednagar during the treatment at 11:00 p.m., the deceased breathed his last. Thereafter, FIR came to be lodged on the basis of which crime as aforesaid came to be registered against the applicant and other accused.

4. Heard Shri R.R.Karpe, learned counsel for the applicant and Shri V.M.Kagne, learned APP for the respondent-State.

5. Shri Karpe, learned counsel for the applicant submits that the applicant had delivered only one blow on the chest of the deceased. Post Mortem report shows that the deceased had three blockages in the heart. He further submits that the Post Mortem report does not show that the death was caused because of blow in the chest. The Medical Officer conducted post mortem and has reserved his opinion till receipt of Hystopathological report. The applicant, therefore, prays for releasing the applicant on bail.

6. Shri Kagne, learned APP for the respondent-State submits that the deceased had sustained fracture to his chest. He submits that Hystopathological report is yet not received. He will try to obtain Hystopathological report as early as possible. Learned APP submits that the applicant may be directed to stay outside the village till the conclusion of the trial if released on bail. Shri Karpe, learned counsel for the applicant has no objection for the same.

7. Charge-sheet is filed. The incident took place at the spur of the moment and in the heat of the passion. The applicant is behind the bars since 19th April, 2021. Applicant has no criminal antecedents. Applicant will be available for trial. Post Mortem report does show that the applicant had chest fracture. However, Medical Officer has reserved his opinion as regards cause of death. Post Mortem report shows that left anterior coronary artery was blocked 90 to 100%. right Coronary Artery Lumin was blocked 50%. In view of this, it cannot be said that the deceased died due to blow on chest. Considering blockages, death due to cardiac arrest cannot be ruled out. Therefore, in the absence of cause of death and considering the fact that trial is not likely to conclude in near future on account of pandemic situation created due to Covid-19, I am inclined to release the applicant on bail.

ORDER

- i) Bail Application is allowed.

ii) Applicant be released on P.R.Bond of Rs.75,000/- (Rs. Seventy-five thousand only) with one solvent surety in the like amount, in connection with Crime No.289 of 2021, registered with Rahuri Police Station, Dist.Ahmednagar, under Sections 302 read with Section 34 of the Indian Penal Code and on condition that he shall not enter the village till the conclusion of the trial having regard to close relations between applicant, deceased and his family members.

iii) Bail 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

SPT