

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

923 BAIL APPLICATION NO.1003 OF 2021

**BHAGWAT BHIMRAO MUNDHE
VERSUS
THE STATE OF MAHARASHTRA**

Shri. K. D. Bade Patil, 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. It is the prosecution case that on 10th September, 2020 at 8.00 p.m. applicant, Bhimrao Mundhe, Shantabai Mundhe and Mandabai Thore assaulted husband of the complainant by the name of Janardhan. The incident took place on account of land dispute. Applicant and Bhimrao Mundhe delivered blows of sticks on head, back, chest and Shantabai Mundhe and Mandabai Mundhe beat the informant and the deceased with kicks and fist blows. The deceased was taken to the police station from where he was taken to

the government hospital, Ambad. From there he was brought back home. When the condition of the deceased deteriorated he was shifted to Narale Hospital, Pachod and thereafter, he was shifted to Dunakhe Hospital, Aurangabad. The deceased died on 7th October, 2020.

3. Initially offence under Section 307 of the Indian Penal Code was registered. Because of the death of the deceased it was converted into Section 302 of the Indian Penal Code.

4. From the FIR, it appears that the deceased, soon after the incident, was taken to the police station and from there he was shifted to government hospital, Ambad. Nothing has been placed on record to show that the deceased was shifted to government hospital at Ambad. Prosecution could have produced injury report to show that the deceased was shifted to Government hospital, Ambad. Thus, prosecution has not adduced any evidence to show as to what injuries the deceased had at the time of the

incident. It further appears from the FIR that the deceased was brought home and he was shifted to private hospital at Narale hospital, Pachod and from there he was shifted to Dunakhe hospital, Aurangabad.

5. Charge-sheet is filed. Therefore, no further detention of the applicant is necessary. Prosecution has not collected medical papers from Narale hospital either. In these state of affairs, it cannot be said with certainty that the deceased had sustained injuries during the incident. From the chronology of events and the evidence collected by the prosecution, it is apparent that the deceased was first time admitted in Dunakhe hospital i.e. on 21st September, 2020. It means the deceased was at home from the date of the incident till he was admitted in Dunakhe hospital. In these state of affairs, it is difficult to accept that the deceased had sustained injuries during the incident. In this view of the matter, I am inclined to release the applicant on bail. Applicant has no criminal antecedents. He will be available for trial. In this view of the matter, following order

is passed.

ORDER

1. Application is allowed.
2. Applicant be released on bail on his furnishing PR bond of Rs. 15,000/- (Rupees Fifteen Thousand only) with one solvent surety in the like amount in connection with CR No. 403 of 2020 under Sections 302, 307, 323, 504, 34 of the Indian Penal Code registered with Gondvi Police Station, Dist. Jalna.
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