

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

BAIL APPLICATION NO.1006 OF 2021

Pandurang @ Ratneshwar @ Tingya
S/o Sahadeo Jadhav

...APPLICANT

VERSUS

The State of Maharashtra

...RESPONDENT

...
Shri Abhaykumar D. Ostwal Advocate for Applicant.
Shri S.W. Munde, A.P.P. for Respondent - State.
...

CORAM: M.G. SEWLIKAR, J.

DATE : 1st DECEMBER, 2021

ORDER :

1. Heard.
2. It is the case of the prosecution that the deceased Dinesh was the brother of the informant. The deceased Dinesh was sitting in Renu Bar, Ausa, District-Latur along with the applicant. Both of them were drinking liquor. Deceased Dinesh had kept a sickle with the Manager of the Bar and had requested him to give it back to him when Dinesh would leave the Bar. Thereafter,

Dinesh went out of the hotel with the sickle. The applicant, who is described as 'Tingya', went behind him. Suddenly there was a commotion and deceased was found dead.

3. Informant was informed of this incident. He lodged the report against Tingya, on the basis of which offence under Section 302 of the Indian Penal Code came to be registered against the applicant.

4. Heard Shri Ostwal, learned counsel for the applicant and Shri Munde, learned APP for the State.

5. Learned counsel Shri Ostwal submits that eye witness account is to the effect that Dinesh was possessing sickle. Suddenly there was a fight between the applicant and Dinesh. Applicant snatched the sickle from the deceased Dinesh and assaulted Dinesh on head. He submits that there was no premeditation. There was no pre-planned attack. It happened suddenly in the heat of passion.

6. Learned APP objected to the applicant being released on bail as offence is serious.

7. On perusal of the charge-sheet, it is seen that the deceased and the applicant were drinking liquor in Renu Bar. From the statement of Juber Pashamiyan Shaikh, the Manager of Renu Bar, it is seen that both, the applicant and deceased Dinesh were heavily drunk. It is also seen from the statement of manager of Renu Bar that deceased had kept a sickle with him. While leaving Renu Bar deceased asked for the sickle. Juber Pashamiyan Shaikh – the Manager was not ready to give him sickle back as deceased was heavily drunk. He ultimately gave the sickle back to the deceased Dinesh as Dinesh abused him. Dinesh left the Bar. Tingya – applicant followed him. Suddenly the Manager heard the commotion and he found that deceased was lying on the road while applicant was holding sickle.

8. Witness Rohit Kamble has given a detailed account of the incident. He is an eye witness. He has stated the incident as narrated by Manager – Juber Pashamiyan Shaikh. He has further stated that a quarrel ensued between deceased and applicant. Deceased Dinesh assaulted the applicant on his left hand. Thereafter, scuffle followed. Applicant snatched the sickle from deceased Dinesh and delivered two blows of sickle on the head

of the deceased. Thereafter applicant left the spot on the motorcycle.

9. From the chronology of these events, it is more than clear that initiator of the quarrel was deceased Dinesh. He was the first one who assaulted the applicant. This shows that the incident took place without premeditation, in the heat of passion. It is worth noting that applicant and deceased were friends. They were drinking liquor together. Nothing is placed on record to show that applicant had any animosity with the deceased.

10. In this view of the matter, I am inclined to release the applicant on bail. Hence the following order is passed:

ORDER

(i) Bail Application is allowed.

(ii) Applicant be released on bail on his furnishing P.R. Bond of Rs. 15,000/- (Rupees Fifteen Thousand) with one solvent surety in the like amount, in connection with C.R. No.58 of 2020 registered with Ausa Police Station, Ausa, Taluka-Ausa, District-Latur for the offence punishable under Section 302 of the Indian Penal Code.

(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, J.]