

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

BAIL APPLICATION NO.1009 OF 2021

Yedu Ziparu Ahire

...APPLICANT

VERSUS

The State of Maharashtra

...RESPONDENT

...
Shri Govind R. Ingole Advocate h/f. Shri Jitendra
S. Gangawane Advocate for Applicant.
Shri V.M. Kagne, A.P.P. for Respondent-State.
...

CORAM: M.G. SEWLIKAR, J.

DATE : 1st DECEMBER, 2021

ORDER :

1. Heard.
2. Informant is the wife of the deceased. Applicant is the brother of the deceased.
3. It is the case of the prosecution that the deceased was a liquor addict. On 2nd December 2020 at 3.00 p.m. informant and her husband, deceased Vishwas were at home. Deceased was

prattling under the influence of liquor. Applicant felt that the deceased was abusing him only and therefore, applicant started beating deceased by means of wooden log. Informant, on seeing this, ran away from the spot. Thereafter, applicant left the spot. Informant came back and saw that deceased had sustained injuries on his abdomen, chest, back and head. At 7.00 p.m. deceased slept without having food. On 3rd December 2020 at 7.00 a.m., informant tried to wake up the deceased, however, deceased did not give any response. That time informant realized that deceased was no more. Thereafter, she reported to the police about the incident. Police registered Accidental Death (A.D.). After receipt of post-mortem report, police registered First Information Report, on the basis of which offence under Section 302 of the Indian Penal Code came to be registered against the applicant.

4. Heard Shri Ingole, learned counsel for the applicant and Shri Kagne, learned APP for the State.

5. Shri Ingole, learned counsel for the applicant submits that initially A.D. Report was registered. He further submits that the First Information Report clearly shows that informant was not at

the spot of the incident. He submits that the applicant was not there at the spot of the incident at the time of incident. He further submits that there are statements of witnesses indicating that the applicant was not there at the spot of the incident. He further submits that deceased was a liquor addict. Deceased might have sustained injuries because of the fall as at the time of incident deceased was heavily drunk and was under the influence of liquor. He submits that cumulative effect of the entire evidence is that applicant was not there at the spot of the incident and he was not responsible for the injuries sustained by the applicant. He further submits that a false case is registered against the applicant as the informant wanted to grab the land.

6. Learned APP opposed the application.

7. On perusal of the Post-mortem Report, it appears that the deceased sustained eleven injuries. They were almost on all the parts of the body. Deceased had sustained injury on head, on abdomen, on chest, on legs. As per the report of the Medical Officer, cause of death is 'Hemorrhagic shock due to splenic rupture due to multiple injuries'.

8. Charge-sheet is filed. From the charge-sheet, it appears that deceased was a liquor addict. Statement of witness Kashinath Natthu Ahire shows that in the past also applicant had assaulted the deceased and had caused fracture to his hand. Learned counsel Shri Ingole submits that there is no medical evidence in that regard.

9. Be that as it may, evidence of informant clearly shows that applicant was the person who assaulted the deceased. Deceased was assaulted on a trivial ground. The applicant caused injuries on vital parts of the body. In view of this, considering the evidence collected by the prosecution, I am not inclined to release the applicant on bail. Hence the following order is passed:

ORDER

Bail Applications is dismissed.

[M.G. SEWLIKAR, J.]