

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

921 BAIL APPLICATION NO.1071 OF 2021

**MANOJ S/O TARACHAND TULSANI
VERSUS
THE STATE OF MAHARASHTRA**

Shri. C. C. Deshpande, Advocate for the applicant
Shri. V. M. Kagne, APP for the respondent/State

**CORAM : M. G. SEWLIKAR, J.
DATED : 3rd 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. 88 of 2021 registered with Dhule City Police Station, District Dhule for the offences punishable under Sections 302, 323, 504, 506 of the Indian Penal Code.

2. Case of the prosecution in brief is that the deceased was the father of the informant. Informant was running a shop of daily needs. Incident took on 11th April, 2021. Applicant had been to the shop of the deceased as he wanted some items of daily needs. Deceased refused to

open the shop as lockdown was imposed. Applicant got annoyed because of the refusal of the deceased and started assaulting the deceased. On hearing commotion, informant came there. Applicant assaulted him also. The persons by name Rajesh Agrawal, Ramchandra Narayandas Daryanani, Ramesh Narayan Daryanani had gathered there, who tried to pacify the applicant but he was not in a mood to listen. He continued assaulting the deceased. The deceased fell unconscious. Deceased was shifted to the hospital. Deceased was declared dead on arrival. Thereafter, FIR came to be lodged on the basis of which offences as aforesaid came to be registered against the applicant.

3. Heard Shri. Deshpande, learned counsel for the applicant and learned APP Shri. Kagne for the respondent/State.

4. Learned counsel Shri. Deshpande submits that the applicant is 24 years of age. He was doing labour work. Because of lockdown, applicant did not have any work to do.

He submits that applicant had no intention to cause death of the deceased. He submits that it happened suddenly without premeditation and in the heat of passion. He submits that applicant does not have any criminal antecedents. He, therefore, seeks release the applicant on bail.

5. Learned APP submits that the applicant had become so violent that he continued to assault the deceased despite the persons present there tried to pacify him and separate him. Applicant was aware of the health condition of the deceased who was 76 years of age at the time of the incident. He submits that despite several attempts by the persons who had gathered there to pacify the applicant, applicant was not in a mood to listen and continued the assault. Applicant had knowledge that the deceased would be killed because of his assault. He, therefore, sought rejection of the application.

6. Charge-sheet is filed. Histopathological report is received. It says that cause of death is coronary artery

disease.

7. Applicant is 24 years of age. Offence took place during lockdown. The circumstances in which the offence took place indicate that applicant had no intention to cause the death of the deceased. The assault was sudden without premeditation and in the heat of passion without taking undue advantage of the circumstances. Applicant does not have criminal antecedents. There is no likelihood of the applicant fleeing from justice. In this view of the matter, I am inclined to release the applicant on bail. Hence the order.

ORDER

1. Application is allowed.
2. Applicant be released on bail on his furnishing PR bond of Rs. 30,000/- (Rupees Thirty Thousand only) with one solvent surety in the like amount in connection with CR No. 88 of 2021 offence under Sections 302, 323, 504, 506 of the Indian Penal Code registered with Dhule City Police Station, District Dhule.
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