

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

925 BAIL APPLICATION NO.1072 OF 2021

**KIRAN @ KHANDYA RAOSAHEB KALE
VERSUS
THE STATE OF MAHARASHTRA**

Shri. R. R. Karpe, Advocate for the applicant
Smt. P. V. Diggikar, APP for the respondent/State

**CORAM : M. G. SEWLIKAR, J.
DATED : 13th 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 CR No. 91 of 2021 registered with Jamkhed Police Station, District Ahmednagar under Section 302 of the Indian Penal Code.

2. The deceased and the applicant were friends. On the day of the incident i.e. on 24th February, 2021 at 8.30 p.m., when uncle of the deceased and wife of the uncle Sojabai were present in the house, applicant came there. Deceased was having his dinner. Applicant slapped him and demanded amount from the deceased. He did not allow the

deceased to complete his dinner and took him away. On the next day at 5 a.m., son of the informant by the name of Amol was informed by Bhima Nana Kale who is the nephew of the informant about the death of the deceased. Amol was informed that the deceased was lying dead in Kharada square behind the Mosque at Jamkhed. Report came to be lodged on 28th February, 2021 on the basis of which offence under Section 302 of the Indian Penal Code came to be registered against the applicant.

3. Heard Shri. Karpe, learned counsel for the applicant and Smt. Diggikar, learned APP for the respondent/State.

4. Smt. Diggikar, learned APP submits that the deceased was taken away by applicant at 8.30 p.m. Evidence of witnesses shows that the deceased and the applicant were seen together at 4.00 p.m. on 24th February, 2021. They were collecting contribution for some function. She submits that soon after the deceased was taken away

the deceased died. She submits that there is no time gap between the deceased last seen with the applicant and his death to indicate that some person other than the applicant was a perpetrator of the crime. She, therefore, prayed for rejection of the application.

5. The deceased and applicant were friends. The wife of the deceased had deserted him. Therefore, applicant was helping the deceased in collecting contribution for bringing the wife of the deceased back. It appears that on the day of the incident amount was not paid by the deceased to the applicant. Chronology of these events shows that the applicant and the deceased were on good terms. It is not the prosecution case that the deceased had any enmity with the applicant. The weapon used is stick. Therefore, from the tenor of the FIR and the evidence collected by the prosecution it appears that he had no intention to kill the deceased. There was a quarrel on account of money.

6. Learned APP submits that offence under Sections 379 and 395 of the IPC are registered against the applicant. He has criminal antecedents.

7. Learned counsel Shri. Karpe states that no offence against human body is registered against the applicant. Therefor, he is not likely to commit similar offence again. Charge-sheet is filed. Trial is not likely to be commenced in near future having regard to the pandemic situation created due to Covid-19. 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. 50,000/- (Rupees Fifty Thousand only) with one solvent surety in the like amount in connection with CR No. 91 of 2021 under Section 302 of the Indian Penal Code registered with Jamkhed Police Station, Dist. Ahmednagar and on condition that he shall not commit similar offence

again.

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