

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

933 BAIL APPLICATION NO.1135 OF 2021

Ravi S/o Vasant Rao Gaikwad
Age: 34 years, Occu.: Service,
R/o.Jaikwadi Area, Parbhani,
Dist.Parbhani

..Applicant
(Ori. Accused No.1)

VERSUS

The State of Maharashtra

..Respondent

...
Advocate for Applicant : Shri Shyam C. Arora
APP for Respondent : Shri V.M.Kagne

...
CORAM : M.G.SEWLIKAR, J.

DATE: 23rd November, 2021

PER COURT:-

1. Heard.

2. Informant is the brother-in-law of the deceased. On 31st March, 2019 at 10:00 a.m., informant invited the deceased Amardeep Rode for lunch. The deceased declined the invitation saying that on account of water some altercation was going on at Jaikwadi Colony. Therefore, the deceased Amardeep and accused Kiran Dake left for Jaikwadi Colony. That aroused the suspicion of the informant as there was some quarrel between deceased Amardeep and accused Kiran Dake on account of

payment of installments of two wheeler of the deceased. Deceased Amardeep stopped his car near Dnyandeep School. At that time, applicant alongwith two unknown persons came there. Applicant assaulted the deceased on his neck by means of an axe. Accused Kiran Dake took axe from applicant and assaulted deceased Amardeep by means of axe on his head. Amardeep started running towards Jaikwadi Colony to save his life. While running, deceased Amardeep got tripped and fell into a ditch. Accused Kiran pelted a stone on the head of the deceased Amardeep. Applicant also pelted a stone on the head of the deceased which crushed the head of the deceased. On these allegations, FIR came to be lodged on 31st March, 2019 at 09:25 p.m. on the basis of which Crime No.0100 of 2019, came to be registered with New Mondha Police Station, Dist.Parbhani, under Sections 302, 120(B), 201, 329, 114, 143, 144,147, 148, 149 of the Indian Penal Code and under Section 135 of the Bombay Police Act, against the applicant.

3. Shri S.C.Arora, learned counsel for the applicant submits that there are several discrepancies in the statements of the witnesses which makes prosecution's story unbelievable. He submits that incident started with an injury on the neck of the deceased. It was allegedly caused by the applicant by means of

an axe. However, post mortem report does not show any injury of this nature. He further submits that there is no consistency in the statements of the witnesses as regards the manner in which the incident took place. Some witnesses say that after the incident, applicant had been to the Police Station to tell the Police that he committed the murder of the deceased. He further submits that during the course of incident, applicant also sustained injuries which is evident from the medical certificate. He submits that applicant completed second year of LL.B. from Jail. He further submits that there was no premeditation. Applicant had no intention of causing death of the deceased. He submits that having regard to the conduct the applicant, applicant may be released on bail.

4. Shri V.M.Kagne, learned APP for the respondent-State opposed the application.

5. Charge-sheet is filed. On perusal of the charge-sheet, it is seen that the applicant and other accused committed brutal murder of the deceased. Post mortem report shows that skull of the deceased was crushed and brain matter had come out. Statements of witnesses show that applicant and accused Kiran Dake assaulted the deceased. Applicant assaulted the deceased

by means of an axe. Deceased started running to save his live. While running, deceased fell into a ditch. Applicant picked up a stone and pelted it on the head of the deceased. Accused Kiran Dake also pelted a stone on the head of the deceased because of which face of the deceased was disfigured and brain matter had come out. It is true that some of the witnesses say that applicant had been to the Police Station to state that he had committed murder of deceased Amardeep.

6. At the stage of bail, what the Court has to consider is the gravity of the offence, nature of accusation, role of the accused and quantum of punishment. In the case at hand as indicated above deceased was brutally killed. Deceased was running to save his life but applicant and Kiran Dake chased him. All these circumstances show that there is a *prima-facie* case against the applicant. Simply because he has cleared second year of LL.B. degree course cannot be a ground to release the applicant on bail especially on the face of such serious allegations of brutal murder. In view of this, application is rejected.

(M.G.SEWLIKAR)
JUDGE