

IN THE HIGH COURT OF JUDICATURE OF BOMBAY  
BENCH AT AURANGABAD

BAIL APPLICATION NO. 1229 OF 2021

Ganesh s/o Taterao Jagtap

Applicant

Versus

The State of Maharashtra

Respondent

Mr. S.S. Rathi, Advocate for the applicant.

Mrs. P.V. Diggikar, APP for respondent/State.

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

DATE : 21<sup>st</sup> October, 2021.

PER COURT :

1. This is an application under Section 439 of the Code of Criminal Procedure for releasing the applicant on bail.

2. Prosecution case in short is that the deceased was the real brother of the applicant. Accused Ankush is the son of the applicant. Infront of the shop of witness Vishwanath, quarrel was going on. In terms of the First Information Report, the daughter of the deceased by name Swarangi heard the screams of her father. Therefore, she and her mother went to the spot and found that the deceased was lying on the ground and the applicant was instigating

accused Ankush to kill the deceased and thereupon accused Ankush picked up a stone and assaulted the deceased. The deceased was shifted to the hospital where he died.

3. Shri Rathi, learned counsel for the applicant submits that the only allegation against the applicant is that he had instigated accused Ankush. He further submits that no overt act is attributed to the applicant. Applicant is 62 years of age. He, therefore, prays for release of the applicant on bail.

4. Learned APP Smt. Diggikar submits that because of the instigation of the applicant, the incident had occurred. She submits that the offence is serious in nature.

5. Charge-sheet is filed. Applicant has no criminal antecedents. Nothing is brought on record to show that applicant will not be available for trial. The only allegation against the applicant is that he had instigated accused Ankush to beat the deceased. In view of this, I am inclined to release the applicant on bail. Hence the following order :-

**ORDER**

- i) Application is allowed.
- ii) Applicant be released on PR Bond of Rs.50,000/- (Rs. Fifty Thousand) with one solvent surety in the like amount in connection with Crime No. 77/2021 registered with Kurunda Police Station, Dist. Hingoli, for the offences punishable under Sections 302, 323, 504, 506 read with Section 34 of the Indian Penal Code, on condition that he shall stay away from village Somthana, Tq. Basmath, Dist. Hingoli till conclusion of the trial.
- iii) 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 )**  
**Judge**