

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

929 BAIL APPLICATION NO.1269 OF 2021

**SHRIKANT @ SONYA S/O SURESH LAHUNDE
VERSUS
THE STATE OF MAHARASHTRA**

Smt. Sarita S. Sabale, Advocate for the applicant
Shri. S. W. Munde, 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. 0363 of 2020 registered with Rahuri Police Station, District Ahmednagar for the offences punishable under Sections 302, 307, 504, 506 read with Section 34 of the Indian Penal Code.

2. Prosecution case in brief is that the deceased Gopinath Lahunde was the husband of the informant. Applicant is the nephew of the deceased.

3. It is alleged in FIR that on 15th May, 2020 at 7.00

p.m., applicant came to the house of the informant and demanded money from the husband of the informant i.e. the deceased. When the deceased refused to give money to the applicant, applicant assaulted him with fist blows and kicks. Because of the assault deceased fell unconscious. Blood was oozing from his nose and mouth. Deceased was shifted to the hospital. Deceased died on 26th May, 2020. Applicant was arrested on 21st May, 2020.

4. FIR was lodged by wife of the deceased on 20th May, 2020 on the basis of which offence as aforesaid came to be registered against the applicant.

5. Heard Smt. Sarita S. Sabale, learned counsel for the applicant and learned APP Shri. Munde for the respondent/State.

6. Learned counsel Smt. Sabale submits that a letter was addressed by the Medical Officer to Police Station, Rahuri dated 06th August, 2020 mentioning therein that

deceased was brought by his relatives to emergency department of Rural Hospital, Taharabad on 15th May, 2020 who was complaining of pain and injury over head and lower lip. The letter further states that patient was in inebriated state and smelling of alcohol and with history of alleged physical assault. Smt. Sabale, learned counsel submits that injury could have been caused by fall as deceased was in inebriated state.

7. Learned APP Shri. Munde submits that deceased had head injury. He was subjected to severe beating by the applicant because of which he sustained injury and cause of death is also injury to head.

8. Charge-sheet is filed. On perusal of the charge-sheet it appears that the letter dated 06th August, 2020 was addressed by Medical Officer to Police Station Rahuri mentioning therein that the deceased was admitted on 15th May, 2020 with head injury. The letter further states that the deceased was in inebriated state and was smelling of alcohol

with alleged history of physical assault.

9. Supplementary statement of informant has been recorded in which she has stated that applicant had kicked the deceased because of which deceased fell down and sustained injury to his head.

10. It is not the prosecution case that applicant and deceased were on cross terms with each other. From the letter of the Medical officer it can be made out that the deceased was under influence of alcohol. Applicant allegedly kicked him once and he fell down. From the circumstances in which the incident took place, it can be said that applicant had no intention to cause the death of the deceased. Therefore, offence under Section 304 of the Indian Penal Code is prima facie made out. Applicant has no criminal antecedents. He has landed property at village Taharabad, Taluka Rahuri, District Ahmednagar. Therefore, he will be available for trial. 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. 0363 of 2020 offence under Sections 302, 307, 504, 506 read with Section 34 of the Indian Penal Code registered with Rahuri Police Station, District Ahmednagar.
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