

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

BAIL APPLICATION NO.1296 OF 2021

Jagdish S/o Damodhar Shedge

...APPLICANT

VERSUS

The State of Maharashtra

...RESPONDENT

...
Shri V.D. Sapkal, Senior Advocate instructed by Shri P.A.
Bhosle Advocate for Applicant.
Shri.G.O. Wattamwar, A.P.P. for Respondent-State.
Shri Arjun R. Lukhe Advocate for assist to the APP.
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CORAM: M.G. SEWLIKAR, J.

DATE : 17th NOVEMBER, 2021

ORDER :

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.203 of 2021 registered with Ghansawangi police station, District-Jalna for the offences punishable under Sections 302, 120-B of the Indian Penal Code.

2. Informant is the father of the deceased Dilip Karhale. It is alleged in the first information report that on 14th June 2021 informant had gone to civil hospital to inquire after Madhukar Ganpat Gaikwad who was hospitalized there. At 8.00 p.m. son in law of informant by the name of Digambar Ganpat Chavan informed the informant telephonically that Damodhar Patilba Shedge, Kishor Dnyandeo Shedge, Jagdish Damodhar Shedge (Applicant) and Kalyan Dnyandeo Shedge were riding on two motorcycles. Deceased was also riding on motorcycle. While motorcycles of the deceased and applicant were in motion, applicant delivered a blow of the iron rod on the head of the deceased Dilip. Deceased Dilip fell unconscious then and there only. Witness Digambar Chavan was following the deceased. He along with Satish Chavan admitted the deceased to the hospital. First information report came to be lodged on 15th June 2021, on the basis of which aforesaid offences came to be registered against the applicant.

3. Heard Shri Sapkal, learned senior counsel for the applicant, Shri Wattamwar, learned APP for State and Shri Lukhe, learned counsel assisting the APP.

4. Learned senior counsel Shri Sapkal invited the attention of this Court to the inquest panchnama and the spot panchnama. Both these panchnamas were prepared prior to the filing of the first information report. He submits that witness Satish Chavan identified the dead body and he himself showed the spot of incident. He submits that Satish Chavan was aware of the incident and still he did not lodge the first information report. He submits that this is a case of accident but it is masqueraded as murder.

5. Learned APP and Shri Lukhe, learned counsel assisting APP submit that the statement of Digambar Punjaram Chavan gives detailed account of the incident. They further submits that witness Subhash Gaikwad has stated that on 12th June 2021 the applicant and others had expressed their intention to kill the deceased. They submit that there is ample evidence against the applicant. Therefore, bail application deserves no consideration.

6. Charge-sheet is filed.

7. Statement of Digambar Chavan shows that he is the son-in-law of the informant, which means he is brother-in-law of the

deceased. Their relation is close relation. He claims to be an eye witness to the incident. He states that applicant had delivered a blow of iron rod on the head of the deceased. His statement further shows that Satish Chavan came there and both of them shifted the deceased to the hospital. This shows that on the date of incident i.e. on 14th June 2021 witness Satish Chavan was perfectly aware of the true incident. However, he did not report to the police about the incident while drawing spot panchnama, despite the fact that he was panch to the inquest panchnama and spot panchnama. This conduct of both these witnesses i.e. Digambar Chavan and Satish Chavan belies the story of the prosecution of murder.

8. Learned APP Wattamwar invited attention of this Court to the statement of Subhash Gaikwad to contend that the applicant and his associates devised a plan to commit murder of the deceased. However, the later part of the statement of this witness shows that he had learnt that the deceased had met with an accident.

9. It is pertinent to note that Digambar Chavan claims to be an eye witness, despite this he did not lodge the report with the

police immediately after the incident. Having regard to this circumstance and the evidence collected by the prosecution, it appears that there is no prima facie case against the applicant.

10. Learned APP Shri Wattamwar submits that the applicant has criminal antecedents. However, criminal antecedents will come into question only when there is prima facie case against the applicant in the offence in which the applicant is seeking bail. As discussed above, the possibility of accident cannot be ruled out.

11. In this view of the matter, I am inclined to release the applicant on bail. Hence the following order is passed:-

ORDER

- i) Bail Application is allowed.
- ii) Applicant be released on bail on his furnishing P.R. Bond of Rs.75,000/- (Rupees Seventy Five Thousand only) with one solvent surety in the like amount, in connection with Crime No.203 of 2021 registered with Ghansawangi police station, District-Jalna for the offences punishable under Sections 302, 120-B of the Indian Penal Code.

iii) Bail 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, J.]