

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

BAIL APPLICATION NO.1357 OF 2021

- 1) Mangalbai Bhagwan Thakare,
- 2) Sarlabai Sanjay Sawale

...APPLICANTS

VERSUS

The State of Maharashtra

...RESPONDENT

...
Shri Amit S. Savale Advocate for Applicants.
Shri V.M. Kagne, A.P.P. for Respondent-State.
Shri Chaitanya C. Deshpande Advocate for assist
to APP.

...

CORAM: M.G. SEWLIKAR, J.

DATE : 1st DECEMBER, 2021

ORDER :

1. Heard.
2. Informant is the injured in the incident. Because of the previous dispute, on 27th May 2021 at about 11.30 p.m, applicants No.1 and 2 along with accused Sanjay, Dnyaneshwar and other accused assaulted the family members of the

informant when they were about to go to sleep. Both the applicants and other accused were hurling abuses. When the informant opened the door of the house, accused Dnyaneshwar, who was armed with an iron rod, delivered a blow of it on the head of the informant. Accused Dnyaneshwar also assaulted father of the informant by means of iron rod. Thereafter the applicants and other accused forcefully entered the house of the informant and assaulted the other family members of the informant. Father of the informant was shifted to the hospital. He was referred to Civil Hospital, Dhule where during treatment, father of the informant by the name of Ratilal Rupchand Ahire breathed his last. Thereafter, First Information Report was lodged, on the basis of which offence under Sections 302, 307, 324, 323, 504, 506, 143, 147, 148, 120-B and Section 449 of the Indian Penal Code read with Sections 37(1)(c) and Section 135 of the Maharashtra Police Act came to be registered against the applicants and other accused.

3. Learned counsel Shri Savale submits that both the applicants were alleged to be armed with sticks. First Information Report and the statements of other witnesses do not

show that these two applicants assaulted the deceased or the informant. Other injured have suffered simple injuries.

4. Learned APP Shri Kagne and learned counsel Shri Deshpande assisting the APP, submit that an assault was launched at 11.30 p.m. The applicants had formed unlawful assembly and they assaulted the family members of the informant on account of property dispute. Therefore, though they did not assault the informant and the deceased, applicants were members of an unlawful assembly. Therefore, the applicants should not be released on bail.

5. Charge-sheet is filed. On perusal of the charge-sheet, it is seen that the informant and the deceased were assaulted by Dnyaneshwar Bhagwan Thakare. Applicants did not assault the informant or the deceased. They assaulted one Vandana. She sustained simple injuries. Considering the role of the applicants and that they do not have criminal antecedents and that they will be available for trial, I am inclined to release the applicants on bail. Hence the following order is passed:

ORDER

- (i) Bail Application is allowed.
- (ii) Each of the Applicants be released on bail on their furnishing P.R. Bond of Rs.25,000/- (Rupees Twenty Five Thousand) with one solvent surety in the like amount, in connection with Crime No. 123 of 2021 registered with Songir Police Station, District-Dhule, for the offences punishable under Sections 302, 307, 324, 323, 504, 506, 143, 147, 148, 120-B and Section 449 of the Indian Penal Code read with Sections 37(1)(c) and Section 135 of the Maharashtra Police Act.
- (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.]