

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL BAIL APPLICATION NO.1545 OF 2020

Laxman Balu Nale

.... Applicant

versus

State of Maharashtra

.... Respondent

.....

- Mr.Rahul K. Dhaygude Advocate for Applicant.
- Mrs.J.S. Lohokare, APP for the State/Respondent.

CORAM : SARANG V. KOTWAL, J.

DATE : 11th JANUARY 2021

P.C. :

1. The Applicant is seeking his release on bail in connection with C.R.No.48/2020 registered with Phaltan Rural Police Station, Satara, dated 08/02/2020, under sections 302 of the Indian Penal Code. The Applicant was arrested on 08/02/2020 and since then he is in custody. The investigation is over and chargsheet is filed.

2. Heard Mr.Rahul K. Dhayduge, learned counsel for the Applicant and Mrs.J.S. Lohokare, learned APP for the State.

3. This is an unfortunate case where the Applicant had murdered his own son. The FIR is lodged by the Applicant's brother Shankar Balu Nale. He has stated that on 08/02/2020 at about 02.00 a.m. the Applicant came to his house and told him that his son was harassing all the family members and therefore he had committed his murder by giving blow of axe on his head. The informant along with others went to the house of the Applicant, where they saw that the deceased Subhash Nale was lying dead on the bed. He had suffered serious injuries above his right ear. On this basis, FIR was lodged. The Applicant was arrested.
4. Learned counsel for the Applicant submitted that the Applicant is 69 years of age. The deceased was causing constant harassment to everyone in the family and therefore all the family members had left the house. The deceased had even quarreled and assaulted the Applicant's daughter and therefore this offence was committed.

5. Learned APP opposed this application on the ground that there was sufficient evidence against the present Applicant and the offence was serious.

6. Reasons -:

The post-mortem notes show that there was one grievous injury of the dimension 10 cm x 1.5 x 5 cms above right ear on parieto occipital region. It was a forceful blow causing instant death. The Applicant himself had gone to his brother and had confessed about his crime. The chargesheet contains statement of various witnesses recorded u/s 164 of Cr.P.C. Those witnesses were Rajendra Nale, Vilas Nale, the first informant Shankar Nale etc. All these statements are consistent. There is recovery of axe at the instance of the present Applicant. Thus there are strong circumstances against the present Applicant. The submissions that since the deceased was constantly harassing the family members, the Applicant had taken this drastic step, does not appeal to me. The deceased was given a

fatal blow when he was sleeping in the bed. It was committed with premeditation. The Applicant had given this fatal blow on the head of his son. The manner of assault cannot be justified even though constant harassment was caused by the deceased. In this view of the matter, no case for grant of bail is made out. The application is therefore rejected.

(SARANG V. KOTWAL, J.)