

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

CRIMINAL BAIL APPLICATION NO. 2950 OF 2021

Gajendra Padurang Padalkar	...Applicant
Versus	
The State of Maharashtra	...Respondent

***WITH
CRIMINAL BAIL APPLICATION NO. 3031 OF 2021***

Mr. Somnath Pandurang Padalkar	...Applicant
Versus	
The State of Maharashtra	...Respondent

Mr. Sarang Aradhya for the Applicants in both matters.

Mr. H. J. Dedhia, A.P.P for the Respondent–State.

CORAM : REVATI MOHITE DERE, J.

DATE : 28th September, 2021

P.C. :

1. Heard learned counsel for the parties.
- 2 By these applications, the applicants seek their enlargement on bail in connection with C. R. No.221 of 2021

registered with the Padharpur Taluka Police Station, Padharpur, District Solapur for the alleged offences punishable under Sections 143, 147, 148, 149, 324, 323, 504, 506 of the Indian Penal Code. Subsequently, after the demise of Tanaji Rasal, Section 302 was added to the aforesaid CR.

3 Learned counsel for the applicants submits that the applicant-Gajendra is alleged to have assaulted Tanaji with the handle of the shovel and the applicant-Somnath is alleged to have assaulted with a wooden stick. He submits that none of the aforesaid applicants have assaulted Tanaji on his head or on any vital part of the body. He submits that the cause of death of Tanaji was head injury for which the applicants are not responsible.

4 Learned APP opposed the applications. He submits that that all the witnesses have consistently stated that the applicant-Gajendra assaulted with the handle of shovel and the applicant-Somnath assaulted with a wooden stick on Tanaji's arms, legs, thighs and back. Learned APP, however, does not dispute the fact, that both the applicants have not assaulted the deceased on his head.

5 Perused the papers. According to the complainant – Shankar Rasal, father of deceased Tanaji, there was a boundary dispute between his family and the family of the accused. He has stated that on 2nd April, 2021, there was a dinner program held at the accused house. He has stated that at 2.30 pm, he heard a loud noise from the area where the accused were residing. He has stated that on hearing the loud noise, he and his family members went near the house of the accused and saw the accused no.1 Pandurang assaulting his son Tanaji with an iron rod. He has stated that the accused no.1 was present alongwith his two sons i.e. applicants as well as wife and daughter of one of the applicant. He has stated that the accused no.1 Pandurang assaulted Tanaji on his head and the applicants herein, assaulted Tanaji with the handle of a shovel and with a wooden stick on his arms, legs, thighs and back. According to the complainant, Pandurang's wife and daughter also assaulted his wife and daughter-in-law.

6 The cause of death of Tanaji as noted in the postmortem report is 'head injury'. The incident took place on 2nd April, 2021 and Tanaji succumbed to the same on 4th April, 2021. A perusal of the postmortem report shows that apart from the head injury, Tanaji had

sustained an abrasion on the left mandibular region; an abrasion over the posterior region of the left shoulder; contusion on the antero-lateral aspect of the left arm; and an abrasion on the anterior aspect of the lower half region of left arm. The said injuries, which are simple in nature, are alleged to have been caused by the applicants. The applicants are in custody since 5th April, 2021. Investigation is complete and chargesheet has been filed and as such further detention of the applicants is not warranted.

7 Accordingly, the applications are allowed and the applicants are enlarged on bail on the following terms and conditions :

ORDER

- (i) The applicants be enlarged on bail, on executing PR Bond in the sum of Rs.15,000/- with one or two sureties in the like amount;
- (ii) The applicants shall attend the concerned Police Station on the first Saturday of every month between 10:00 am to 12:00 noon, till the conclusion of the trial;
- (iii) The applicants shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case;
- (iv) The applicants shall inform their latest place of residence and mobile contact number and/or change of

residence or mobile details, if any, from time to time to the Court seized of the matter and to the Investigating Officer of the concerned Police Station;

- (v) The applicants to cooperate with the conduct of the trial and attend the Court on every date, unless exempted;
- (vi) If there is a breach of any of the aforesaid conditions, the prosecution shall be at liberty to seek cancellation of the applicants' bail.

8 The applications are allowed in the aforesaid terms and are accordingly disposed of.

9 It is made clear that the observations made herein are *prima facie*, and the trial Court shall decide the case on its own merits, in accordance with law, uninfluenced by the observations made in this order.

10. All concerned to act on the authenticated copy of this order.

REVATI MOHITE DERE, J.