

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.3022 OF 2021

PRASHANT BABURAO PATIL)...APPLICANT

V/s.

THE STATE OF MAHARASHTRA)...RESPONDENT

Ms.Rati Sinhasane i/b. Mr.Umesh Mankapure, Advocate for the Applicant.

Smt.Anamika Malhotra, APP for the Respondent – State.

CORAM : V. G. BISHT, J.

**RESERVED ON : 24th NOVEMBER 2021
PRONOUNCED ON : 8th DECEMBER 2021**

P.C. :

1 The present application has been moved by the applicant under Section 439 of the Code of Criminal Procedure in Crime No.57 of 2021 registered with Police Station Islampur, Sangli, for offences punishable under Section 302 of the Indian Penal Code (IPC).

2 It is the case of the prosecution that deceased Ashok Ananda Patil was working as a labour in the field of the informant. On 31st January 2021 there was a quarrel between the deceased Ashok Ananda Patil and father of the applicant on account of letting of water on the way leading to the field. The prosecution alleges that on 1st February 2021 the applicant assaulted the deceased with an iron rod on his head and back and ran away from the spot. The informant, accordingly, lodged the report.

3 Ms.Rati Sinhasane, learned counsel for the applicant, submits that there is no eye witness to the whole incident and the applicant has been arraigned as an accused on the basis of extra judicial confession allegedly given by the applicant to the prosecution witnesses. Besides, there is also recovery of iron rod allegedly used by the applicant in the commission of the offence. According to the learned counsel, as far as the extra judicial confessions are concerned, the same can be decided at the time

of trial. Investigation is over and the charge-sheet has been filed. Therefore, there is no need to keep the applicant in custody.

4 Smt. Anamika Malhotra, learned APP, on the other hand, submits that prior to the incident in question, an incident had taken place on 31st January 2021 wherein a verbal altercation had taken place between the father of the applicant and the deceased. Keeping that incident in mind, the applicant assaulted the deceased by means of a rod. The learned APP invited my attention to the postmortem report wherein the cause of death is given as haemorrhagic shock and traumatic brain injury and brainstem injury. Apart from this, according to the learned APP, iron rod used in the commission of offence has also been seized at the instance of applicant under Section 27 of the Indian Evidence Act. There being no merit in the application, the same is liable to be rejected.

5 Perused the investigation papers. Admittedly, there are extra judicial confessions allegedly given by the applicant to

witnesses, namely, Amol @ Ganesh Shankar Patil, Bapurao Shamrao Todkar and Bhanudas Bhagwan Patil. The law in respect of extra judicial confession is very settled. While statements of these witnesses shall be decided by the Court to conclude whether the applicant herein who made the confessions are trustworthy or not and not at this stage. Apart from this, admittedly, there is no eye witness to the incident. The only incriminating evidence, at present, is the recovery of iron rod at the instance of applicant, which he allegedly used for committing the crime in question.

6 Having regard to the material on record, I hold that the applicant has made out a case for grant of bail. Hence, I pass the following order :

ORDER

- (i) Applicant – Prashant Baburao Patil shall be released on bail in Crime No.57 of 2021 registered with Police Station Islampur, Sangli, on his executing P.R.Bond in the sum of Rs.20,000/- with one or two sureties in like amount.

- (ii) The applicant shall not tamper with prosecution evidence.
- (iii) The applicant shall attend the Court proceedings regularly.
- (iv) Bail before the trial Court.
- (v) Parties to act on copy of this order duly authenticated by the Sheristedar of this Court.
- (vi) It is made clear that the observations made herein are prima facie and the trial Court shall decide the case on its own merit, in accordance with law, uninfluenced by the observations made in this order.
- (vii) The application is allowed in the aforesaid terms and stands disposed off accordingly.

(V. G. BISHT, J.)