

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.3453 OF 2021

NAMDEV POPAT PATIL

)...APPLICANT

V/s.

THE STATE OF MAHARASHTRA

)...RESPONDENT

Mr.Niranjan Mundargi i/b. Ms.Tanvi Tapkire, Advocate for the Applicant.

Mr.H.J.Dedhia, APP for the Respondent – State.

CORAM : V. G. BISHT, J.

**RESERVED ON : 16th NOVEMBER 2021
PRONOUNCED ON : 24th NOVEMBER 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.98 of 2021 registered with Police Station Kavathe Mahankal, Sangli, for offences punishable under Section 302, 323, 324, 326, 143, 147, 148, 149, 504, 506 of the Indian Penal

Code (IPC) and under Section 123(2) of Representation of People's Act as also under Sections 37(1), 37(3) and 135 of Maharashtra Police Act.

2 It is the case of prosecution that on 4th March 2021 there was an election of Gram Panchayat, Borgaon, for the post of Deputy Sarpanch and because of this a quarrel ensued between informant's brother Pandurang Janardhan Kale (deceased for short) and others on one hand and workers from the Bharatiya Janta Party (BJP), namely, applicant and 37 others along with 20 to 25 unknown persons on the other, who all not only formed an unlawful assembly but assaulted the deceased by means of iron rod and other weapons. Accordingly, First Information Report (FIR) came to be filed.

3 Mr.Niranjan Mundargi, learned counsel for the applicant, submits that the role attributed to the applicant is that he had assaulted on the chest and abdomen of the deceased by means of fist and kicks blows. According to the learned counsel,

when the incident took place, the applicant did not participate and after sometime assaulted the deceased by means of fist and kick blows. The learned counsel next submitted that there are inconsistent statements of prosecution witnesses even regarding the use of fist and kick blows and then took me through statements of various prosecution witnesses which I would be discussing shortly. The learned counsel then submits that some of the accused have been released on bail by the learned trial Court and therefore, this ground be taken into consideration. For all these reasons, the application is required to be released on bail, argued learned counsel.

4 Mr.Dedhia, learned APP, on the other hand, submits that the presence of the applicant at the time of the incident is not disputed. The applicant had used a chair while assaulting the deceased. Thus, specific role is attributed to the applicant. There being no merit in the application, the same is liable to be rejected.

5 Perused the FIR and investigation papers. If the FIR is read carefully, it would be seen that after the assault by the other named accused was over and the deceased was taken to Gram Panchayat Office, it is at that point of time, the present applicant allegedly followed the deceased and then assaulted by means of fist and kick blows over the lower abdomen and chest.

6 Coming to the statement of prosecution witnesses, first statement is of Ganpati Namdev Patil who states that the applicant had lifted a chair for assaulting the deceased and had pushed the deceased. However, because of his intervention, the applicant could not use the chair in an attempt to assault the deceased.

7 The next statement is of Sahadev Baburao Parit who states that after the incident was over, the deceased was made to sit on a chair. However, the chair was kicked by Sujit Patil, as a result of which the deceased had fallen down. But the statement of this witness nowhere shows the role of the applicant.

8 The next statement is of Mahadev Ramchandra Patil.
This witness also nowhere attributes any role to the applicant.

9 Then is the statement of Vidyarani Sagar Naik who
states that although the applicant had lifted a chair to assault the
deceased but because of intervention of Ganpati Namdev Patil, he
could not accomplish the desired object.

10 Similar is the statement of Nishigandha Amol Patil.

11 From the statements of these witnesses, what is
apparent at the most is that the applicant had lifted the chair to
assault the deceased but he could not do so because of the
intervention of the said witnesses. The only allegation appearing
against the applicant is in the form of report of informant who
alleges that the applicant had assaulted the deceased on his chest
and abdomen by means of fist and kick blows and that too, after
the incident was over and the deceased was taken into the office
of Gram Panchayat.

12 From the above and having regard to the role attributed to the applicant, in my considered opinion, the applicant deserves to be enlarged on bail. Hence, I pass the following order :

ORDER

- (i) Applicant – Namdev Popal Patil shall be released on bail in Crime No.98 of 2021 registered with Police Station Kavathe Mahankal, Sangli, on his executing P.R.Bond in the sum of Rs.25,000/- 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.)