

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

CRIMINAL BAIL APPLICATION NO. 386 OF 2021

Lala Baban Shinde

.... Applicant

Versus

The State of Maharashtra

.... Respondent

Mr. Shriniwas Patwardhan i/b Rajeshwari Patil, for the applicant.

Mr. S.H. Yadav,, APP for the State/Respondent.

**CORAM: SARANG V. KOTWAL, J.
DATE : 9th JUNE 2021**

P.C. :

1. The applicant is seeking his release on bail in connection with C.R.No.405 of 2020 registered at Pandharpur Taluka Police Station, Pandharpur under sections 302, 307, 323, 324, 341, 504 and 506 of the Indian Penal Code and under section 135 of the Maharashtra Police Act. The applicant was arrested on 04/09/2020 and since then he is in custody. The investigation is over and the charge-sheet is filed.

2. Heard Mr. Shriniwas Patwardhan, learned counsel for the applicant and Mr. S.H. Yadav, learned APP for the State.

3. The FIR was lodged by eye witness Satish Balu Pawar in respect of assault caused by the applicant to the informant's father Hari Pawar. He has described that there was enmity between the applicant who was distant relatives of the informant's family. On 04/09/2020, in the morning, the applicant had threatened the informant's father that he would commit his murder because the informant's father had made a complaint against the applicant. At that time, the applicant had left that place. While going away, he had pelted stones towards the informant causing injuries to the informant. For that the informant and his father were going towards Police Station to give that complaint. At about 11.00 a.m. they were intercepted by the applicant near an agricultural field in village Degaon. He was carrying a sickle. He straightaway gave blow on the informant's father's head.

But the informant's father warded it off with his right hand causing injuries to his right hand finger. The informant intervened and therefore he suffered a blow on his head. The informant tightly held the applicant. He made a phone call to their common relative in an attempt to pacify the applicant. That relative spoke with the applicant. The applicant therefore decided to go away. While going away he gave kick blows on chest and stomach of the informant's father Hari. The informant tried to take Hari back to his house but his condition deteriorated. He was taken to Lifeline Hospital. He succumbed to his injuries.

4. Learned Counsel for the applicant submitted that manner of assault described in the FIR shows that it was highly improbable and could not have taken place in the manner in which it was described. He submitted that the FIR is a concocted story. He further submitted that in any case the offence will not fall within the meaning of 'murder' as death was not caused because of use of

weapon. He submitted that the deceased had died natural death because of his weak heart.

5. Learned APP opposed this application. He submitted that the informant's statement is clear enough as far as applicant is concerned. He further submitted that in 2016 also the applicant had assaulted the informant for which another case is pending arising out of C.R. No. 701 of 2016 under Section 326 of IPC at the same Police Station.

6. I have considered these submissions. Post mortem notes show that cause of death is mentioned as "death is due to injury to vital organ. However, heart sent for HPR. Blood and bone sent for DNA". Column No. 21 of post mortem notes show that there was ruptured spleen. That perhaps had contributed to cause of death. This particular injury is in consonance with the allegation that kick blows were given on stomach and chest. Though the applicant had not given fatal blow with any

weapon, kicking with force on stomach and chest shows that he had knowledge of causing injuries leading to death. Background of the applicant is also important. The applicant had earlier assaulted the informant causing grievous injury. Looking to this nature of the applicant, it will not be safe to release him on bail. There is likelihood of further commission of such offence by the applicant if he is released on bail. Therefore, considering these aspects, I am not inclined to grant bail to the present applicant.

7. The application is rejected.

(SARANG V. KOTWAL, J.)