

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

CRIMINAL BAIL APPLICATION NO.2241 OF 2021

1. Ashok Shankar Jadhav	
2. Pravin Ashok Jadhav	...Applicants
Versus	
State of Maharashtra	...Respondent

Mr. Satyavrat Joshi, for the Applicants.

Mr. A. A. Palkar, A.P.P for the Respondent – State.

CORAM : REVATI MOHITE DERE, J.

DATE : 8th SEPTEMBER 2021

P.C. :

1 Heard learned counsel for the parties.

2 By this application, the applicants seek their enlargement on bail in connection with C.R. No. 97 of 2021 registered with the Vadgaon Police Station, Kolhapur, for the alleged offences punishable under Sections 302, 324, 323, 325, 504 r/w 34 of the Indian Penal Code.

3. Learned Counsel for the applicants submits that the allegations as against the applicants are false and baseless. He submits that the applicants are alleged to have assaulted the deceased with stones and sticks, however, the postmortem report of the deceased - Bhimrao Jadhav shows

that he had not sustained any external injuries. He submits that the incident seems to have taken place at the spur of the moment. He submitted that the offence would not be one under Section 302 but would constitute a lesser offence. Learned Counsel has tendered a copy of the postmortem report of the deceased Bhimrao Jadhav. The same is taken on record.

4. Learned APP opposes the application.

5. Perused the application. According to the complaint – Ranjit Bhimrao Jadhav (son of the deceased), the incident took place on 21st February 2021 at about 6:00 p.m. when he was cleaning the water tank attached above the toilet of his house. He has stated whilst cleaning the tank, he flushed the water tank, pursuant to which the water entered into the premises of his paternal uncle i.e. applicant No.1 - Ashok Shankar Jadhav. He has stated that on seeking the water entering the house premises, applicant No.1 - Ashok Jadhav and the applicant No.2 - Pravin Ashok Jadhav came in front of his house and started abusing his father - Bhimrao Jadhav (deceased), mother and his wife in filthy language. It is alleged by the complainant that both the applicants were armed with a stone and stick and that the applicants also assaulted the complainant's father i.e. Bhimrao

Jadhav (deceased) with fist and kick blows on his chest. The applicants are also alleged to have assaulted the complainant's mother and the complainant, resulting into injuries to them. Pursuant to the said incident, Bhimrao Jadhav (deceased) became unconscious, as a result of which, he was taken to the hospital, where he was declared dead. A perusal of Column No.17 of the postmortem report shows, that no external injuries were seen on the deceased. The cause of death was stated to be 'Blunt trauma to chest'. As far as Rukmini, mother of the complainant is concerned, it appears that she sustained a nasal bone fracture. The injury certificate of the complainant - Ranjit Jadhav shows that he had sustained a contusion on his hand and an injury near the forearm. Although, there is recovery of one stick, at the instance of the applicant No.2, it *prima facie* appears that the same was not used in the assault on the deceased - Bhimrao Jadhav. Whether or not the offence would be one under Section 302 of Indian Penal Code or a lesser offence, is a matter of evidence and the trial Court will decide the same after evidence is adduced in this regard. Investigation is complete and charge-sheet is filed. The applicants are in custody since 22nd February 2021.

6. Considering the aforesaid, in the facts, further detention of the applicants is not warranted. Accordingly, the application is allowed and

the applicants are enlarged on bail, on the following terms and conditions:-

ORDER

- (i) The applicants be released on cash bail in the sum of Rs. 20,000/- each, for a period of eight weeks;
- (ii) The applicants shall within the said period of eight weeks, furnish P.R. Bond in the sum of Rs. 20,000/- each with one or two sureties in the like amount;
- (iii) The applicants shall attend the concerned Police Station on the first Saturday of every month from 10:00 a.m. to 1:00 p.m. till framing of charge;
- (iv) The applicants shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case;
- (v) The applicants shall inform their latest place of residence and mobile contact number immediately after being released 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;

- (vi) The applicants to cooperate with the conduct of the trial and attend the trial Court on all dates, unless exempted;
- (vii) The applicants shall file an undertaking with regard to clauses (ii) to (vi) in the trial Court, within two weeks of their release;
- (viii) If there is a breach of any of the aforesaid conditions, the prosecution shall be at liberty to seek cancellation of the applicants bail.

7. The application is allowed in the aforesaid terms and is accordingly disposed of.

8. 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.

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

REVATI MOHITE DERE, J.