

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

***CRIMINAL BAIL APPLICATION NO. 2143 OF 2021***

|                          |               |
|--------------------------|---------------|
| Dinesh Govinda Pawar     | ...Applicant  |
| Versus                   |               |
| The State of Maharashtra | ...Respondent |

Mr. N. R. Bubna for the Applicant

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

PSI Mr. Tushar Bhadane from Jaykheda Police Station, is present

**CORAM : REVATI MOHITE DERE, J.**  
**WEDNESDAY, 22<sup>nd</sup> SEPTEMBER 2021**

**P.C. :**

1            Heard learned counsel for the parties.

2            By this application, the applicant seeks his enlargement on bail in connection with C.R. No. I-358/2020 registered with the Pawarwadi Police Station, Malegaon, Nashik, for the alleged offences punishable under Sections 302, 307, 452, 324, 143, 147, 148, 149, 504, 506 of the Indian Penal Code.

3            Learned counsel for the applicant submits that with respect to the incident dated 4<sup>th</sup> September 2020, there is a cross complaint/FIR lodged by Roshan Pawar (original accused No.2) as against the complainant in the present C.R and others with the same police station alleging offences punishable under Sections 302, 307, 324, 452, 143, 147, 148, 149, 504, 506 of the Indian Penal Code. He submits that the complainant in the present C.R and others were the aggressors and that the incident had taken place outside the applicant's house and not in the complainant's house as alleged. Learned counsel relied on the spot panchanama in support of his submission. He submits that Kedarnath, the applicant's relative also died in the said incident. He submits that the applicant has no antecedents and that investigation is complete and charge-sheet is filed and as such, further detention of the applicant is not warranted.

4            Learned A.P.P opposes the application. Learned A.P.P, however, does not deny the fact that there is a cross FIR with respect to the said incident dated 4<sup>th</sup> September 2020 nor does he deny that the incident has taken place outside the applicant's house.

5 Perused the papers. According to the complainant in the present C.R - Hiranman Padalkar, the incident took place on 4<sup>th</sup> September 2020 at about 9 p.m. He has stated that all the accused persons including the applicant, formed an unlawful assembly and entered his house with axe, iron rod and wooden sticks and abused him and others. The complainant has further alleged that all the accused were saying that they were not given respect during the the marriage of the complainant's brother. The complainant has further alleged that when he tried to pacify them, accused No.1 Kedarnath Pawar assaulted him with an axe on his head and injured him. He has further stated that when Mahadu Padalkar (deceased) and complainant's brother-Chintaman Padalkar came to rescue him, accused No. 1 - Roshan assaulted the complainant's brother-Chintaman with an iron rod and the present applicant (accused No. 7) assaulted Mahadu Padalkar with a wooden bat on his head and injured him. It is further stated that when the other witnesses came to rescue them, accused No. 2-Govind, accused No. 9-Rahul and accused No. 10-Pushpak, assaulted them with wooden sticks and threatened them. As Mahadu had sustained injuries, he was taken to the hospital and that he succumbed to the same on the next day i.e. on 6<sup>th</sup> September 2020.

6           With respect to the said incident dated 4<sup>th</sup> September 2020, there is a cross FIR registered from the applicant's side by Roshan Pawar (original accused No. 2 in the present C.R). According to Roshan, the complainant in the present C.R and other accused were the aggressors and that they came to their house and assaulted Kedarnath (deceased) with knives and other weapons. It is stated that Kedarnath also was taken to the hospital and he succumbed to the injuries on the next day. From the applicant's side, Roshan Pawar lodged an FIR which was registered vide C.R. No. 357/2020 with Jaykheda Police Station, Nashik, for the alleged offences punishable under Sections 307, 143, 147, 148, 149, 504, 506 and 324 of the Indian Penal Code and subsequently Section 302 was added after the demise of Kedarnath.

7           It appears and which fact is not disputed by the learned A.P.P is that, the said spot panchnama shows that the incident had taken place outside the applicant's house and not in the complainant's house i.e. the complainant in the present C.R. A perusal of the Column 17 of the post-mortem report of Mahadu Padalkar shows that he had sustained 3 injuries i.e. abrasion over left wrist; abrasion over right wrist; abrasion over left eyelid with edema and ecchymosis. On internal examination, a fracture was noted on the left parietal bone of the skull. The cause of death is stated

to be head injury. It appears that there was no superficial injury caused to Mahadu and that the injury certificate of Mahadu which is at page 98 shows that no superficial injury, clinically brain stem and cerebral intracranial haemorrhage, was seen. The post-mortem report of Kedarnath shows the cause of death as, 'death due to haemorrhagic shock due to lung and splenic injury due to stab injury trauma. Column 17 of the post-mortem report shows that Kedarnath had sustained as many as seven injuries, in particular, a sharp cutting wounds over epigastric region; left side chest, lateral to left nipple; left hypochondriac region of abdomen; left iliac fossa of abdomen and multiple scratches over chest. The internal examination shows that he had also sustained fracture of the occipital bone and fracture to the ribs.

8           *Prima facie*, it does appear that the complainant and others in the present C.R. had gone to the applicant's house. There has been one person on either side who died in the said incident. Investigation is complete and chargesheet is filed. Whether or not the applicant is alleged to have assaulted Mahadu with a bat on his head and whether or not the injuries caused to Mahadu were in self-defense or not, is a matter, which will be decided by the trial Court. There are no antecedents. Investigation is complete and chargesheet is filed.

9                    Accordingly, the application is allowed and the applicant is enlarged on bail, on the following terms and conditions :

**ORDER**

- (i)                    The applicant be enlarged on bail, on executing PR Bond in the sum of Rs. 20,000/- with one or two sureties in the like amount;
- (ii)                    The applicant shall attend the concerned Police Station on the first Saturday of every month between 10:00 a.m. to 11:00 a.m, until framing of charge;
- (iii)                    The applicant shall inform his 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;
- (iv)                    The applicant to cooperate with the conduct of the trial and attend the trial Court on all dates, unless exempted;

(v) The applicant shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case;

(vi) If there is breach of any of the aforesaid conditions, the prosecution shall be at liberty to seek cancellation of the applicant's bail.

10 The application is accordingly disposed of.

11 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.

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

**REVATI MOHITE DERE, J.**