

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

AIL APPLICATION NO.2652 OF 2021

RAGHUNATH GANGARAM THAVIL)...APPLICANT

V/s.

THE STATE OF MAHARASHTRA)...RESPONDENT

Mr.Rameshwar Gite, Advocate for the Applicant.

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

CORAM : V. G. BISHT, J.

RESERVED ON : 25th OCTOBER 2021
PRONOUNCED ON : 29th OCTOBER 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.I-14 of 2021 registered with Police Station Surgana, for
offences punishable under Section 324, 323, 504, 506 read with
34 of the Indian Penal Code (IPC).

2 It is the case of the prosecution that on 7th March 2021 while the informant and her husband namely Kantilal Thavil were present towards the hand pump of their field, cousin sister-in-law of the informant, namely Phulabai was passing by carrying a round metal pot. The informant's husband (since deceased) told Phulabai that she should relinquish his share in his land. The prosecution alleges that this annoyed Phulabai and she started beating the informant by means of round metal pot and also by means of stones to the deceased. Meantime, the brother-in-law of Phulabai, namely, Raghunath Thavil (present applicant) also came running and beat the deceased by means of fist and kick blows. It is further alleged that Phulabai then gave blows on head of the deceased from front and back sides. Later on, the deceased was shifted to Rural hospital and from there to Nashik Civil Hospital. However, during the course of treatment, the deceased succumbed to injuries.

3 Mr.Gite, learned counsel for the applicant, submits that the allegation against the applicant in the First Information

Report (FIR) is that he assaulted the deceased by means of fist and kick blows. However, after twenty one days of the recording of the FIR, supplementary statement of the informant again came to be recorded wherein she alleged that the applicant had given blows of stone on the head and mouth of the deceased. This is clearly an improved version which cannot be taken into consideration. The learned counsel then invited my attention to the postmortem report wherein cause of death is head injury (rapid antigen test – positive). Keeping all these facts in mind, the present applicant deserves to be released on bail, argued learned counsel.

4 Mr.Dedhia, learned APP, on the other hand, opposed the submissions by contending that the supplementary statement of the informant clearly indicates the role played by the applicant. There being no merit in the application, the same is liable to be rejected, argued learned APP.

5 I have gone through the investigation papers. FIR dated 8th March 2021 clearly alleges that the applicant had

beaten the deceased by means of fist and kick blows. Except that, no other allegation is made against the present applicant i.e. to show whether any deadly weapon was used by him or not while assaulting the deceased. Interestingly, the informant's supplementary statement came to be recorded on 29th March 2021 i.e. after twenty one days. For the first time, in the supplement statement the informant claimed that the deceased was also assaulted by means of stone by the applicant. Why this material fact was not earlier revealed or disclosed in the FIR is nowhere explained.

6 Apart from above, the postmortem report shows that the cause of death was rapid antigen test (positive). In view of above, in my considered opinion, the application deserves consideration. More so, when the investigation is completed and the charge-sheet has been filed. Hence, I pass the following order :

ORDER

- (i) Applicant – Raghunath Gangaram Thavil shall be released on bail in Crime No.I-14 of 2021 registered with Police Station Surgana, 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) Parties to act on copy of this order duly authenticated by the Sheristedar of this Court.
- (iv) The application is allowed in the aforesaid terms and stands disposed off accordingly.

(V. G. BISHT, J.)

ARTI VILAS
KHATATE

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