

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

CRIMINAL BAIL APPLICATION NO.1433 OF 2020

Vasant Krishna Padadale

.... Applicant

versus

State of Maharashtra

.... Respondent

.....

- Mr.Harshal Sathe, Advocate for Applicant.
- Ms.A.A. Takalkar, APP for the State/Respondent.

CORAM : SARANG V. KOTWAL, J.

DATE : 11th MARCH, 2021

P.C. :

1. The Applicant is seeking his release on bail in connection with C.R.No.23/2020 registered with Guhaghar Police Station, Ratnagiri, under section 302 of the Indian Penal Code. The Applicant was arrested on 09/04/2020 and since then he is in custody. Investigation is over and the charge-sheet is filed.

2. Heard Mr.Harshal Sathe, learned counsel for the Applicant and Ms.A. A. Takalkar, learned APP for the State.

3. The FIR is lodged by one Ashok Ramchandra Niwate. He was brother-in-law of the deceased Kamlakar Padadale. The Applicant is brother of the deceased Kamlakar. The informant has stated that on 08/04/2020, he had seen the Applicant and deceased talking with each other. That time the Applicant had asked for fishing net from his brother Kamlakar. Kamlakar went to his house and told him that he did not have it. That time Kamlakar told the Applicant that he could give him the net later. The Applicant did not like it. There was quarrel between him and his brother. It escalated further. The Applicant picked up a stick and gave blows on the head and neck of Kamlakar. Kamlakar fell down and became unconscious. He succumbed to his injuries and therefore this FIR is lodged.
4. Learned counsel for the Applicant submitted that the incident has occurred on spur of moment. There was no premeditation and motive. The Applicant was not carrying any weapon and therefore offence would not fall within the definition of murder.

5. Learned APP opposed this application. She submitted that the manner in which the blows are given, shows the Applicant's intention.

6. I have considered these submissions. With their assistance, I have perused charge-sheet. In the charge-sheet there are statements of eyewitness namely Ashok Niwate, who is the first informant and children, Swaraj and Amruta, of the deceased Kamlakar. They have also supported the informant's case. There is recovery of stick at the instance of the Applicant. Therefore, at this stage, occurrence of incident cannot be doubted. However, it does appear that the incident had occurred on the spur of moment. The Applicant was not carrying any weapon and it was only after the quarrel between them, which had escalated beyond a point, the Applicant has given two blows. Post-mortem notes shows that there are two injuries suffered by the deceased. One was on the head 6 x 2 cms and other one was contusion over neck. It was 6 x 4 cms. The cause of death was 'due to cerebral Haematoma due to head injury'.

7. Thus there was one fatal blow given by the Applicant on the head. Other blow has not caused serious damage. There was no premeditation. There is a possibility that offence may fall within the meaning of lesser offence than that of the murder. Therefore, the Applicant can be granted bail during the pendency of the trial.

8. Hence, the following order :

ORDER

- (i) In connection with C.R.No.23/2020 registered with Guhaghar Police Station, Ratnagiri, the Applicant is directed to be released on bail on his furnishing PR bond in the sum of Rs.30,000/- (Rupees Thirty Thousand Only) with one or two sureties in the like amount.
- (ii) Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)