

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

CRIMINAL BAIL APPLICATION NO.3102 OF 2021

Bhagwan Daji Jadhav ...Applicant
Versus
The State of Maharashtra ...Respondent

***WITH
INTERIM APPLICATION (STAMP) NO. 13873 OF 2021
IN
CRIMINAL BAIL APPLICATION NO.3102 OF 2021***

Rohini Suryakant Jadhav ...Intervener

IN THE MATTER BETWEEN :

Bhagwan Daji Jadhav ...Applicant
Versus
The State of Maharashtra ...Respondent

Mr. Satyavrat Joshi for the Applicant

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

Mr. Rahul Ramraje Patil for the Intervener in IA(St.)/13873/2021

**CORAM : REVATI MOHITE DERE, J.
MONDAY, 13th 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. 69 of 2021 registered with the Kadegaon Police Station, Sangli, for the alleged offences punishable under Sections 302, 324, 323, 504, 506 r/w 34 of the Indian Penal Code.

3 Learned counsel for the applicant submits that the similarly placed co-accused-Rukmini Bhagwan Jadhav has been enlarged on bail by the Sessions Court. He submits that the applicant's son-Kailash is alleged to have assaulted the deceased-Suryakant Jadhav with a wooden log on his head and that the applicant and his wife are also alleged to have assaulted the deceased with sticks and with fist and kick blows. He submits that the 164 statement of one Namrata Jadhav-niece of the deceased shows that the Rukmini Jadhav had called the applicant by calling him on phone and that there was a quarrel on account of water tap started by the deceased. He submits that the post-mortem report reveals that the deceased died due to fracture of the fronto-parietal bone. He submits that the applicant is in custody since 6th March 2021 and that the investigation is complete and charge-sheet is filed.

4 Learned counsel for the intervenor/complainant vehemently opposed the bail application. He submits that the applicant has antecedents and that the said case pertains to quarrel between the applicant's family and the deceased's family, even prior thereto. He further submits that the applicant, if released on bail, will intimidate/threaten the deceased's family, consisting of all ladies. Learned counsel has tendered the 164 statements of the complainant-Rohini Jadhav, Chabutai Jadhav, Dropada Jadhav, Ranutai Jadhav and Sachin Vetel. The same are taken on record.

5 Learned A.P.P also opposes the bail application.

6 Perused the papers. The applicant is a relative of the complainant and family and it appears that there is a long ongoing land dispute between the complainant's and applicant's family. The incident is alleged to have taken place on 5th March 2021. It is alleged by the complainant-Rohini that Kailash Jadhav (son of the applicant and original accused No. 1), the applicant and his wife-Rukmini came to their house, armed with wooden sticks in their hands and said that "it's our turn to use

water, why have you turned on the water valve of your land” and started assaulting him with sticks. The complainant has further stated that when her husband Suryakant (deceased) replied that the water valve was turned on by mistake, the accused No.1-Kailash threatened the deceased and stated that he would not leave him alive and started assaulting him with wooden log on his head. The applicant and his wife are also alleged to have assaulted the deceased and others with sticks and with fist and kick blows. According to the complainant, when her mother-in-law-Chabutai and daughter-in-law-Ranutai intervened to stop the fight, they too were assaulted with wooden sticks, as a result of which, they too sustained injuries. Suryakant (deceased) was taken to the hospital where the doctors, on examining him, declared him dead.

7 A perusal of the post-mortem report of Suryakant shows that he had sustained 2 CLW on his head i.e. depressed fracture of fronto-parietal bone; contusion on left eye and abrasion over the upper chest and an abrasion over neck. The cause of death is stated to be traumatic brain injury secondary to depressed fracture of fronto-parietal bone on left side with excessive bleeding and neurogenic shock. It also appears that the complainant had sustained certain injuries i.e. a CLW over left forearm,

hairline fracture of right lower limb. The medical certificate of Chabutai Jadhav, mother-in-law of the complainant shows that she too had sustained injuries i.e. CLW over left forearm and a grievous head injury. A perusal of the 164 statement of Namrata Jadhav-niece of deceased-Suryakant shows that Rukmini had called the applicant to her house on phone and there was a quarrel on account of supply of water between them. She has stated that the applicant and his wife were armed with sticks and their son Kailash was armed with a wooden log. She has further stated that all of them assaulted her uncle Suryakant (deceased) and others.

8 A perusal of the 164 statement of the complainant-Rohini shows that the applicant's son-Kailash was armed with a wooden log and that he assaulted the complainant's husband Suryakant with the said wooden log, as a result of which, he fell down and that thereafter, the applicant and the applicant's wife assaulted him with the sticks and fist and kick blows and that they too were assaulted by all the three persons. The 164 statement of Chabutai Jadhav shows that her son was assaulted by Kailash and his mother and that thereafter all were assaulted with sticks and fist and kick blows. Similar are the 164 statements of other witnesses. Rukmini-wife of the applicant, who is alleged to have assaulted with a stick

and fist and kick blows, is released on bail. The applicant's son-Kailash is alleged to have assaulted the deceased with the wooden log on his head and that the same is consistently spelt out by all the witnesses.

9 As far as antecedents of the applicant are concerned, there are two cases registered against him and the said cases are between the said two families.

10 The applicant is in custody since 6th March 2021. Investigation is complete and chargesheet is filed. The apprehension of the learned counsel for the complainant/intervenor that if the applicant is enlarged on bail, he will intimidate or threaten the witnesses who are all ladies, can be well taken care of, by imposing stringent conditions.

11 Considering the aforesaid, the applicant, aged 65 years, deserves to be 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. 25,000/- with one or two sureties in the like amount;

(ii) The applicant shall attend the Kadegaon Police Station, Sangli, on the first Saturday of every month between 10:00 a.m. to 12:00 noon, till the conclusion of the trial;

(iii) The applicant shall not enter Sangli District till the conclusion of the trial, except for the purpose of attending the trial Court and reporting to the police station, as directed vide clause (ii) above;

(iv) 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;

(v) The applicant to cooperate with the conduct of the trial and attend the trial Court on all dates, unless exempted;

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

(vii) The applicant shall file an undertaking with regard to clauses (ii) to (vi) in the trial Court, within two weeks of his release;

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

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

13 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.

14 In view of the above order, Interim Application (Stamp) No. 13873/2021 also stands disposed of.

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

REVATI MOHITE DERE, J.