

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

CRIMINAL BAIL APPLICATION NO. 3330 OF 2021

1. Azad Vijay Patil
2. Prafulla Vijay Patil
Versus
1. The State of Maharashtra
2. The Senior Inspector of Police

...Applicants
...Respondents

Mr. S. T. Pandey a/w Mr. Arvind Singh, Mr. Ashif Husain, Mr. J. M. Patel,
Ms. Bharati Bhosale, Ms. Deepika Ostwal i/b SBG Law for the Applicants

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

CORAM : REVATI MOHITE DERE, J.

MONDAY, 11th OCTOBER 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. 53/2021 registered with the Nashik Road Police Station, Nashik, for the alleged offences punishable under Sections 302, 326, 323, 504, 506, 143, 147, 148, 149 of the Indian Penal Code and under Section 135 of the Maharashtra Police Act.

3 Perused the papers. The incident is alleged to have taken place on 15th February 2021 at about 21:30 hours. It is alleged by the complainant-Sandeep @ Sunny Salve that there was a quarrel between his father and the accused in respect of partition of their ancestral property. It is alleged that in the quarrel, all the accused assaulted the deceased's father-Bhaskar with fist and kick blows on his stomach and private part. The complainant has stated that when he heard the cries, he came out when accused No. 1-Devidas Salve assaulted him with a sickle on his right hand finger. The deceased-Bhaskar was taken to the hospital, where he was declared to be dead. The post-mortem report which is at page 54 shows the probable cause of death as death due to head injury. Column No. 17 of the post-mortem report shows that the deceased-Bhaskar had sustained a contusion over right parietal region of scalp; abrasion over right little finger. Column 19 i.e. the internal examination of head shows underscalp haematoma over right fronto-parietal region.

4 Learned counsel for the applicants submits that taking the prosecution case as it stands, no offence under Section 302 can be invoked. He submits that the applicants are in custody since 16th February 2021. Investigation is complete and charge-sheet is filed.

5 Whether offence under Section 302 is made out or not, is a matter, which will be decided by the trial Court during the trial. Admittedly, the applicants had not used any weapon nor is it alleged. It appears *prima facie*, that the incident took place at the spur of the moment. The applicants have no antecedents and as such, in the facts, further detention of the applicants is not warranted.

6 Accordingly, the application is allowed and the applicants are enlarged on bail, on the following terms and conditions :

ORDER

(i) The applicants be enlarged on bail, on executing PR Bond in the sum of Rs. 15,000/- each, with one or two sureties in the like amount;

(ii) The applicants shall inform their latest place of residence and mobile contact numbers 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;

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

(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.

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.