

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 3329 OF 2021**

Devidas Ramchandra Salve ... Applicant

Versus

The State of Maharashtra and Anr. ... Respondents

Mr. S. T. Pandey a/w Arvind Singh a/w Deepika Oswal i/b SBG Law, for
the Applicant.

Mr. A. A. Palkar, APP, for the State-Respondent.

CORAM : V. G. BISHT, J.

RESERVED ON : 16th November, 2021.

PRONOUNCED ON : 23rd November, 2021.

PC:-

. The present application has been moved by the applicant under
Section 439 of the Code of Criminal Procedure in C.R. No. 53 of 2021
registered with Nashik Road Police Station, District-Nashik for the
offences punishable under Sections 302, 326, 323, 504, 506, 143, 147,
148, 149 of the Indian Penal Code and Section 135 of the Maharashtra
Police Act.

2 It is the case of prosecution that the applicant and other accused

on account of old dispute in respect of partition and share in the agricultural land, on 15/02/2021 at about 9-30 p.m. assaulted Bhaskar Salve (since deceased), father of the informant, by means of fist and kick blows on abdomen and on the private part and thereby caused the death of the deceased. Even the informant was assaulted by the applicant by means of sickle whereby a finger of the right hand was broken.

3 Mr. Pandey, learned Counsel for the applicant, submits that some of the accused namely, Azad Vijay Patil and Prafulla Vijay Patil have already been released on bail by this Court (Coram: Revati Mohite Dere, J.) on 11th October, 2021. Therefore, he claims parity.

4 Learned Counsel invited my attention to the contents of FIR wherein it is alleged that the deceased was assaulted by fist and kick blows, however, in the supplementary statement of the informant dated 26/04/2021, he came up with a new theory. He stated as he was confused on the date of incident, he inadvertently gave the statement that his father was assaulted by means of wooden log. In fact, the deceased was not assaulted by wooden log but by means of fist and kick blows on his abdomen and private part. Learned Counsel also invited my attention to the cross FIR filed by Devidas Ramchandra Salve i.e.

cousin of the informant. For all these reasons, the applicant deserves to be granted bail, argued learned Counsel.

5 Mr. A. A. Palkar, learned APP, on the other hand, submitted that appropriate order may be passed.

6 From the order of this Court (Coram: Revati Mohite Dere, J.) dated 11th October, 2021, it is seen that accused Azad Vijay Patil and Prafulla Vijay Patil have been granted bail. I have gone through the investigation papers and more particularly, the Postmortem Report which is at page No. 56. It shows that deceased had sustained a contusion over right parietal region over scalp and abrasion over right little finger. Column No. 19 i.e. the internal examination shows that there was underscalp haematoma over right fronto-prietal region. The cause of death is shown as, “death due to head injury”.

7 Now the cause of death and contents of FIR and as also the supplementary statement so discussed herein-above are at loggerheads. While the FIR shows that the death of the deceased was due to fist and kick blows over abdomen and on private part, the Postmortem Report depicts the cause of death was due to head injury. It is not the case of

prosecution that any weapon was used by the accused while assaulting the deceased. All these inconsistencies will have to be looked into at the time of trial.

8 Presently, the applicant has made out a case for bail. No criminal antecedents are forthcoming. Having regard to the material on record and in my considered opinion, the detention of applicant is unwarranted. Hence, the following order.

ORDER

(i) Applicant- Devidas Ramchandra Salve shall be released on bail in C.R. No. 53 of 2021 registered with Nashik Road Police Station, District-Nashik on his executing P .R. bond in the sum of Rs.20,000/- with one or more sureties in like amount.

(ii) The applicant shall not tamper with the prosecution evidence and shall attend the trial regularly.

(iii) The observations made herein-above are prima-facie in its nature for the purpose of deciding the bail application only. The trial Court shall not be influenced by the observations while deciding the case on merits.

(iv) Parties to act on copy of this order duly authenticated by the Sheristedar of this Court.

(v) The application is allowed in the aforesaid terms.

(V. G. BISHT, J.)

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