

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.3252 OF 2021

SANJAY PANDURANG MANE)...APPLICANT

V/s.

THE STATE OF MAHARASHTRA)...RESPONDENT

Mr.Vaibhav Gaikwad Advocate for the Applicant.

Ms.Pallavi Dabholkar, APP for the Respondent – State.

CORAM : V. G. BISHT, J.

**RESERVED ON : 7th DECEMBER 2021
PRONOUNCED ON : 20th DECEMBER 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.55 of 2021 registered with Police Station Vaduj, Satara, for offences punishable under Section 302, 323, 504, 506 read with 34 of the Indian Penal Code (IPC).

2 Informant is the wife of deceased Bhausahab Pandurang Mane. Applicant is her brother-in-law while co-accused Pandurang Mane is her father-in-law. According to prosecution there was dispute between deceased and the applicant over distribution of water of common well. On 11th February 2021 a quarrel ensued over distribution of water and prosecution alleges that applicant gave a blow of stick on the head of deceased while co-accused Pandurang Mane beat the deceased by fist and kick blows. The deceased later on succumbed to the injuries. Accordingly, First Information Report (FIR) came to be lodged.

3 Mr.Vaibhav Gaikwad, learned counsel for the applicant, submits that there was no intention on the part of applicant to kill the deceased. The learned counsel also invited my attention to the findings of postmortem report and submits that there was only a single injury on the head and the cause of death is "Death due to head injury". Since the incident had taken place in a sudden fight, it cannot be said that the applicant had

intention to kill the deceased. Investigation is over and charge-sheet has been filed. The trial may take its own time. Therefore, the applicant may be enlarged on bail, urged learned counsel.

4 Ms.Pallavi Dabholkar, learned APP, on the other hand, invited my attention to the contents of the FIR and as also findings of postmortem report. Having regard to the nature of offence, according to the learned APP, the applicant should not be enlarged on bail.

5 Perused the investigation papers. From the FIR it appears that the deceased was none other than real brother of applicant. Even co-accused Pandurang Mane is father of the deceased. Secondly, there was dispute between sharing of water of common well for the purpose of irrigation and on that count, the incident in question took place on 11th February 2021. It further appears that dispute erupted over sharing of common well water and in that applicant gave a blow of stick on the head of his own brother.

6 I have also gone through postmortem report. There is only one injury over head. Column no.19 shows that there was fracture of skull bone at vertex region. The cause of death was “Death due to head injury”. Thus, two things are clear. First, the incident took place suddenly because of quarrel, and second, there was a single blow made on a vital part of the body of the deceased leading to the death of the deceased.

7 Having regard to the facts and circumstances of the case, as also the relationship between the parties, plus the injury, in my view, the applicant has made out a case for bail. Moreover, the investigation is over. There are no criminal antecedents. No purpose would be served by keeping the applicant behind the bars.

8 In view of above, I am inclined to allow the application. Hence, I pass the following order :

ORDER

- (i) Applicant – Sanjay Pandurang Mane shall be released on bail in Crime No.55 of 2021 registered with Police Station Vaduj, Satara, on his executing PR.Bond in the sum of Rs.20,000/- with one or two sureties in like amount.
- (ii) The applicant shall not tamper with prosecution evidence.
- (iii) The applicant shall attend the Court proceedings regularly.
- (iv) Bail before the trial Court.
- (v) Parties to act on copy of this order duly authenticated by the Sheristedar of this Court.
- (vi) It is made clear that the observations made herein are prima facie and the trial Court shall decide the case on its own merit, in accordance with law, uninfluenced by the observations made in this order.

(vii) The application is allowed in the aforesaid terms and stands disposed off accordingly.

(V. G. BISHT, J.)

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