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

BAIL APPLICATION NO. 3629 OF 2021

Gorakh Mohan Rathod ...Applicant

Versus

State of Maharashtra ...Respondent

.....
Mr. Satyavrat Joshi i/b. Mr.Nitesh J. Mohite for the Applicant.
Mrs. PP. Shinde, APP for the Respondent -State.

.....
CORAM : V.G.BISHT, J.
RESERVED ON : 26TH NOVEMBER, 2021
PRONOUNCED ON : 10TH DECEMBER, 2021

PC:-

1. The present application has been moved by the applicant under Section 439 of the Code of Criminal Procedure in Crime No. 182 of 2021 registered with Jath Police Station, Sangli for the offences punishable under Sections 302, 307, 326, 324, 323, 427 read with 34 of the Indian Penal Code (the IPC).

2. It is the case of prosecution that on 21st April, 2021 at about 8.30 pm., while informant along with his father Balu,

uncle Bharat Kondiba Thombare and cousin Tanaji Rayappa Thombare were passing through the land of applicant by tractor, they were intercepted and told that despite warning them (informant and others) that they should not use their agriculture land for plying their tractor, are still using the same and then allegedly broken the headlights of the tractor and punctured the tyre. It is further alleged that accused Sagar Chavan, who was holding a knife in his hand, assaulted on the head of Balu Thombare i.e., father of informant and also uncle, namely, Bharat Thombare in his abdomen. It is further alleged that the applicant and other accused also assaulted them by means of sticks. During the course of treatment, his uncle Bharat Thombare succumbed to the injuries.

3. Mr. Joshi, learned Counsel for the applicant, submits that it is not the case of prosecution that the applicant had used any sharp weapon like knife nor that it was he, who had stabbed to the deceased or for that matter assaulted the father

of informant. All that is alleged is that the applicant had used a stick. Learned counsel invited my attention to M.L.C. Certificate and pointed out that the injuries sustained by prosecution witnesses were simple in nature. There are no criminal antecedents. Investigation is over and the charge-sheet has been filed. In such circumstances, the applicant deserves to be enlarged on bail.

4. Mrs. Shinde, learned APP, has however not disputed the above submissions.

5. Perused investigation papers. I have also gone through the M.L.C. Certificate pertaining to the injuries prosecution witnesses. It is apparent from the First Information Report that it was accused Sagar Gulab Chavan, who had used his knife in assaulting the father of informant and uncle. Because of the assault, uncle of the informant sustained various injuries as mentioned in Column No. 17 of the postmortem report. The cause of death was due to complications

following multiple stab injuries. Thus, the stab injury is attributable to accused Sagar Chavan. Similarly, M.L.C certificates pertaining to Sheetal Balu Thombare and Balu Thombare show that they had sustained abrasion and CLWs and the nature of the injuries were simple.

6. Thus, having regard to the role attributed to the applicant, in my considered opinion, the applicant deserves to be enlarged on bail particularly when no criminal antecedents are forthcoming and as also the investigation is over. The trial may take its own time and, therefore, it is not desirable that the applicant be allowed to remain behind the bars. Hence, the following order :

ORDER

(i) Applicant- Gorakh Mohan Rathod shall be released on bail in C.R. No. 182 of 2021 registered with Jath Police Station, Sangli on his executing P.R. Bond in the sum of Rs. 20,000/- with one or two surety/ sureties in like amount.

(ii) The applicant shall not tamper with prosecution evidence.

(iii) The applicant shall attend the concerned police station as and when called by the investigating officer.

(iv) Bail before the trial Court.

(v) 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.

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

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

(V.G.BISHT, J.)