

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

925 BAIL APPLICATION NO.69 OF 2022

Vishal Ramesh Patil
Age: 20 years, Occu: Labourer
All R/o of Nimgaon Tal: Rahata,
District: Ahmednagar.

... Applicant
(Orig. Accused No.2/Applicant)

Versus

The State of Maharashtra
Through Shirdi Police Station,
Tal. Rahata, District: Ahmedagar.

... Respondent

...

Mr. Rajendra L. Kute, Advocate for Applicant
Mr. A. V. Deshmukh, APP for Respondent

...

CORAM : M. G. SEWLIKAR, J.

DATE : 17th February, 2022

PER COURT :

This is an application under Section 439 of the Code of Criminal Procedure for enlargement of applicant on bail in connection with Crime No.0748 of 2020 registered with Shirdi Police Station, District Ahmednagar, for the offences under Sections 302, 120-B, 143, 147, 148, 149, 504 and 506 of the Indian Penal Code.

2. The informant is the son of Ravindra Mali (since deceased).
Ravindra Mali had a grocery shop named and styled as "Sai Shraddha

and Kirana Stores”. It appears that mother of the informant by the name of Bhagyashri Ravindra Mali had given grocery articles on credit to accused-Ajay Vaijinath Bhange, applicant-Vilash Ramesh Patil and accused-Ravindra Bansode. When these three people were asked to make the payment in respect of purchase of grocery articles on credit, they assaulted the mother of the informant on account of which N.C. Case No. 342/2020 under Sections 323, 504, 506 and 427 of the Indian Penal Code came to be registered on 16th November, 2020.

3. On 19th November, 2020 at 10:30 p.m., the applicant along with accused, namely, Ajay Bhange, Ajju Pathan, Sameer Shaikh, Ravindra Bansode and Kunal Jagtap went to the grocery shop of the deceased and accused, namely, Sunil Lokhande, Akshay Shinde and Mahesh Gaikwad also came there on foot. Accused–Sameer Shaikh, Kunal Jagtap and Ajju Pathan started abusing deceased–Ravindra Mali on account of filing of a complaint against their friends. Applicant along with Ravindra Bansode, Sunil Lokhande, Akshay Shinde, Mahesh Gaikwad and Sameer Shaikh held the deceased-Ravindra Mali and accused–Ajay Bhange assaulted on the neck of deceased–Ravindra Mali by means of a knife. Deceased-Ravindra Mali was shifted to Saibaba Hospital, Shirdi where he was declared dead.

4. Heard Shri Kute learned counsel for the applicant and Shri Deshmukh learned APP for the respondent-State.

5. Shri Kute learned counsel for the applicant submits that the version of the informant and version of the brother of deceased is inconsistent with each other. He submits that informant has stated the spot of the incident to be the grocery shop, whereas brother of deceased by the name of Nanasahebrao Mali does not mention the exact spot of incident. He further submits that there are two medical certificates indicating that the assault was made by unknown persons. According to Shri Kute, because of enmity, false case has been foisted on the applicant and other accused.

6. Shri Deshmukh learned APP for the respondent–State submits that in the medical certificate, the name of person giving information about the incident is mentioned as Sanjay Sahebrao Mali. Sanjay Sahebrao Mali is not an eye witness to the incident. He further submits that informant is an eye witness to the incident. Similarly, brother of deceased by the name of Nanasahebrao Mali is also an eye witness to the incident. Both of them have consistently stated that deceased was assaulted by all these people and accused-Ajay Bhangе assaulted the deceased by means of a knife on the neck. He submits that, therefore, there is a *prima facie* case against the applicant.

7. It is alleged in the First Information Report that the applicant and other six-seven accused were beating deceased-Ravindra Mali. Soon

thereafter, accused-Ajay Bhangе assaulted the deceased-Ravindra Mali on his neck by means of a knife. On perusal of postmortem report, it does not appear that the deceased had any other injury except the injury caused by Ajay Bhangе by means of a knife. Therefore, the story of beating by the applicant and other accused is belied by the postmortem report. Admittedly, the applicant is on the cross term with the informant and his deceased father. NC also was filed by the mother of the informant against the applicant and two others. In addition to this, the informant states in the First Information Report that deceased was held by the applicant and other accused and accused-Ajay Bhangе assaulted deceased on the neck by means of a knife. However, another eye witness Nana Sahebrao Mali gives a different version. He states that deceased was being beaten by the applicant and at that time, accused-Ajay Bhangе assaulted the deceased by means of a knife. Having regard to the inconsistent version and absence of any other injury except on the neck by means of a sharp substance and inconsistent version of eye witness in this regard, I am inclined to release the applicant on bail. The considerations for bail are gravity of the offence, seriousness of the accusations, role of the applicant, his criminal antecedents, whether he would be available for trial if he is released on bail.

8. In the case of Prashant Singh Rajput Vs. State of Marashtra, **AIR 2021 Supreme Court 5004**, the Hon'ble Supreme Court has held that role

of the accused is also a relevant consideration while dealing with the bail application. In the case at hand, fatal blow was not given by the applicant. In this view of the matter, I am inclined to release the applicant on bail. Hence, the following order :-

ORDER

1. Application is allowed.
2. Applicant be released on bail on PR bond of Rs.40,000/- (Rupees Forty Thousand Only) with one solvent surety in the like amount in connection with Crime No.748 of 2020 registered with Shirdi Police Station, District Ahmednagar, for the offences under Sections 302, 120-B, 143, 147, 148, 149, 504 and 506 of the Indian Penal Code, on condition that he shall not enter the Rahata Taluka till the conclusion of the trial except for attending the Court on the dates fixed during the trial.
9. These observations are made only for the disposal of this application and the learned trial Court shall not get influenced by these observations and can come to its independent conclusion.

(M. G. SEWLIKAR, J.)

Sameer