

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

**935 BAIL APPLICATION NO.98 OF 2022
with APPLN/563/22**

1. SHESHRAO MAROTI ACHEGAVE
2. UTTAM MAROTI ACHEGAVE
VERSUS
THE STATE OF MAHARASHTRA

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Advocate for Applicants : Mr. Bhapkar Shivaji Bhimrao
APP for Respondents/State : Mr. V.S. Badakh

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**BAIL APPLICATION NO.131 OF 2022
with APPLN/562/22**

RAJESH MADHAVRAO BIRAJDAR
VERSUS
THE STATE OF MAHARASHTRA

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Advocate for Applicants : Mr. Bhapkar Shivaji Bhimrao
APP for Respondents/State : Mr. V.S. Badakh
Advocate for Informant in Appln/562/22: Mr. Avinash Suryawanshi

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**CORAM : M.G. SEWLIKAR, J.
DATE : 16th February, 2022**

PC:-

All these applications can be disposed of by common order as they arise out of the same offence.

2. By these applications, the applicants are seeking their enlargement on bail in connection with Crime No.138/2021 registered with

Degloor Police Station, District Nanded under Section 302, 324, 326, 323, 504, 506, 143, 147, 148, 149 of the I.P.C. and under Section 135 of the Maharashtra Police Act, 1951.

3. Prosecution case in brief is that on 20th March, 2021, the informant learnt that his cousin by the name of Yogesh Dharmaje was being beaten by accused-Abhijit Sheshrao Achegave and other male and female relatives of the said Abhijit on account of the Gram Panchayat elections. Thereupon, his father, informant and Yadav Dharmaje went there running. They saw that Yogesh was being abused and beaten by Sheshrao Achegave and Uttam Achegave with kicks and fist blows. Mahanand Biradar and Panchphula Achegave held the deceased-Yogesh by hair and were slapping and punching him. Hanmant Birajdar, Dilip Birajdar and Rajesh Birajdar started beating him and his father with kicks and fist blows. Uttam Achegave and Sheshrao Achegave assaulted the informant and his father by means of stick. The blow was aimed at the head of father of the informant but it was intercepted by the the informant. Therefore, the informant sustained injury on his right palm. Accused-Abhijit delivered a blow of rod on the head of Yogesh because of which Yogesh started bleeding from ear. He fell unconscious. Other people assaulted the informant and his father. Deceased-Yogesh Vishwanath Dharmaje was shifted to the hospital but on arrival he was

declared dead.

3. Heard learned counsel Shri Bhapkar for the applicants, Shri Badakh learned APP for the State and Shri Suryawanshi learned counsel for the informant assisting the APP.

4. Learned counsel Shri Bhapkar submits that similarly situated accused i.e. Panchphula Achegave has been released on bail. Her role is similar to that of the applicants. He further submitted that the fatal blow was given to the deceased by Abijit.

5. Learned APP and Shri Suryawanshi submit that the applicants assaulted the informant and his father by means of a stick. They further submit that their earlier applications have been rejected by this Court. Therefore, they should not be released on bail.

6. Charge-sheet is filed.

7. On perusal of the FIR it is seen that fatal blow was given by accused-Abhijiit to the deceased. A blow of iron rod is alleged to have been given by accused-Abhijit to the deceased on head. Because of the blow the deceased-Yogesh fell unconscious. So far as other accused are concerned, though it is alleged that they also beat Yogesh with kicks and fist blows and

with stick, post mortem report belies these allegations. The post mortem report shows only one injury on the person of the deceased i.e. plus shape wound on side of parietal bone posterior size 2x2x2 cm bleeding through wound. The deceased did not have any other injury. Therefore, the post mortem report does not corroborate the allegations made in the FIR about beating by other accused. So far as applicants are concerned it is alleged that they assaulted the informant by means of a stick. The stick was aimed at the father of the informant but because of the interception by the informant it landed on the hand of the informant and his hand was swollen. These allegations clearly show that none of the applicants assaulted the deceased. Medical certificate shows that injured Baswaraj Dharmaje sustained fracture injury to metacarpal bone. Having regard to the injury sustained by the applicants and the injuries on the dead body of the deceased, I am inclined to release the applicants on bail. Hence the following order is passed:

ORDER

- I) Both the bail applications are allowed.
- II) Each of the applicants be released on PR bond of Rs.30000/- with one solvent surety in the like amount each, in connection with Crime No.138/2021 under Section 302, 324, 326, 323, 504, 506, 143, 147, 148, 149 of the I.P.C. and under Section 135 of the Maharashtra Police Act, 1951 of the I.P.C. with Degloor Police Station, District Nanded on condition that they shall not enter

village Ballur, Tq. Degloor till the conclusion of the trial.

- III) Applications for assist to APP are also disposed of.
- IV) 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 during trial.

[M.G. SEWLIKAR, J.]