

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

BAIL APPLICATION NO.120 OF 2022

Arun @ Mukesh Shyam Sonawane (Panchal) ...Applicant

Versus

The State of Maharashtra ...Respondent

WITH
BAIL APPLICATION NO.121 OF 2022

Prakash Bhimrao Sonawane (Panchal) ...Applicant

Versus

The State of Maharashtra ...Respondent

...
Advocate for Applicants : Shri V. P. Rajee
Advocate for Respondent - State : Shri V. S. Badakh
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CORAM : M. G. SEWLIKAR, J.

DATED : 24-02-2022

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PER COURT :-

1. Both these applications can be disposed of by common order as they arise out of the same offence. Both these applications are filed under Section 439 of the Code of Criminal Procedure for releasing the applicant on bail in connection with C.R. No. 81/2021 registered with Nardana Police Station, District Dhule for the offences punishable under Sections 302, 323, 504, 506 r/w 34 of the Indian Penal Code. Informant is the cousin of Sanjay Nimba Koli (since deceased).

2. On 03rd August 2019, niece of the informant by the name of Kumina told him at 05.30 p.m. that she had sold cucumber to one Prakash Panchal but he did not pay the price of it. When the informant confronted Prakash Panchal about non-payment of price of cucumber, he started abusing the informant. A crowd started marching towards the informant. When deceased Sanjay Nimba Koli, Vijay Nimba Koli got the knowledge of the incident, they came there running. Applicant physically lifted Sanjay Koli and banged him on the floor. Accused Vishal Panchal mounted on the chest of the Sanjay Koli and started banging his head on the floor. Sanjay fell unconscious. When he was taken to the Hospital he was declared as brought dead. On these allegations FIR came to be lodged.

3. Charge-sheet is filed. Learned counsel Shri Raje submits that both the applicants had no intention to commit the murder of the deceased. It was simply a fight. No weapon was used. Therefore, applicants be released on bail. He further submits that if the applicants are released on bail, they will stay out of the District till the conclusion of the trial.

4. Learned APP submits that the offence is serious in nature. Applicants themselves initiated the quarrel. Therefore, he does not deserve to be released on bail.

5. From the charge-sheet it appears that there was no enmity between the applicant and the deceased. Quarrel started on account of non-payment of price of cucumber. No weapon was used in the commission of the offence. Both the applicants had no intention to kill the deceased. Their intention was only to cause injury to the deceased Sanjay. Seriousness of the allegations, gravity of the offence, role of the accused in commission of the offence, whether they will be available for trial are the relevant considerations while dealing with application for bail. In the case in hand, there is nothing on record to show that the applicants are likely to commit similar offence again. He does not have criminal antecedents. The incident occurred at the spur of the moment in the heat of passion. In this view of the matter I am inclined to grant bail to the applicant by putting stringent conditions. In view of this, following order is passed :-

ORDER

- (i) Both the applications are allowed.
- (ii) Applicant in application Nos. 120 of 2022 and 121 of 2022 be released on P.R. bond of Rs. 50,000/- (Rupees Fifty Thousand only) each, with one solvent surety in the like amount in connection with Crime No.81/2021 registered with Nardana

Police Station, District Dhule, under Sections 302, 323, 504, 506 r/w 34 of the Indian Penal Code, and on condition that they shall not pressurize the witnesses and shall not enter District Dhule till the conclusion of the trial except the dates fixed by the trial Court during trial.

(iii) All the applications are disposed off.

(iv) It is clarified that the observations, made in the above order are restricted to the decision of this application only and the trial Court shall not get influenced by the same and can come to its independent conclusion during trial.

[M.G. SEWLIKAR, J.]

shp/-