

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

925 BAIL APPLICATION NO. 245 OF 2022

**PRADEEP SAHEBRAO GHODE
VERSUS
THE STATE OF MAHARASHTRA**

Shri. M. L. Wankhade, Advocate for the applicant
Shri. G. O. Wattamwar, APP for the respondent/State

**CORAM : M. G. SEWLIKAR, J.
DATED : 10th March, 2022**

PER COURT :-

1. Heard.

2. From the allegations made in the FIR it appears that informant is the wife of Bhaurao Sahebrao Khandare (since deceased). On 31st May, 2021 at 08.00 p.m. Bhaurao Sahebrao Khandare was chit chatting with his cousin by the name of Sunil Bhagoji Khandare in the house. At that time, the applicant along with other accused came there. All of them were armed with stick, axe, iron rod and assaulted the deceased on the ground that deceased had the habit of abusing under influence of liquor. Accused Pankaj Nagorao Ghode delivered a blow of axe on the head of the deceased. All the applicants beat the deceased by

means of iron rod on his back and head. Deceased was dragged by accused Yashwant Vitthal Ghode, accused Pradip Sahebrao Ghode, accused Anant Yashwant Ghode and accused Atmaram Nivrutti Ghode. The deceased was beaten by the accused and the applicant by means of sticks on head and back.

3. Learned counsel Shri. Wankhade submits that deceased had only one injury on head. He did not have any other injury. He submits that applicant did not give fatal blow to the deceased.

4. Learned APP Shri. Wattamwar submits that applicant was present there. He also participated in the assault as a result of which deceased died. He submits that applicant also had common object in committing murder of deceased. Therefore, by virtue of Section 149 of the Indian Penal Code, applicant becomes equally liable. Hence, he doesn't deserve to be released on bail.

5. On perusal of the FIR and the charge-sheet it reveals that accused Pankaj Nagorao Ghode had delivered a fatal blow.

As per narration in the FIR, applicant and other accused assaulted the deceased by means of stick, iron rod, stick on the head and back of the deceased. On perusal of the Post-mortem report, it is seen that the deceased had only one injury on head. There is one injury on arm, once scratch abrasion present over flexor aspect of right forearm and multiple abrasions present over dorsum of both feet and places of varying sizes. Cause of death is head injury. Having regard to this, it is clear that fatal blow was dealt that by accused Pankaj Nagorao Ghode. Role of the accused is one of the considerations for releasing the applicant on bail as held by the **Hon'ble Supreme Court** in the case of **Prashant Singh Rajput Vs. State of Madhya Pradesh (AIR 2021 Supreme Court 5004)**. Having regard to the role played by the applicant during the incident, I am inclined to release the applicant on bail. Hence the order.

ORDER

1. Application is allowed.
2. Applicant be released on bail on his furnishing PR bond of Rs. 50,000/- (Rupees Fifty Thousand only) with one solvent surety in the like amount in connection with CR No. 0061 of 2021 under Sections 302, 307, 143, 147, 148, 149, 504, 506

of the Indian Penal Code registered with Bori Police Station, District Parbhani, on condition that he shall not enter the village Nivali (Bk), Tq. Jintur, Dist. Parbhani till the conclusion of trial, shall not pressurize the witnesses and shall not tamper the prosecution evidence.

3. Application is disposed of.

4. 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.]

ssp