

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

924 BAIL APPLICATION NO.253 OF 2022

Dnyaneshwar Bhagwan Thakare

Age: Adult, Occu.: Agriculturist,

R/o. Shirdhane Pra,.Ner,

Taluka Dhule, District Dhule.

..Applicant

VERSUS

The State of Maharashtra

..Respondent

Advocate for Applicant : Shri Amit S. Savale

APP for Respondent : Shri G.O.Wattamwar

CORAM : M.G.SEWLIKAR, J.

DATE: 9th March, 2022

PER COURT :-

1. By this application under Section 439 of the Code of Criminal Procedure, applicant is seeking bail in connection with Crime No.048 of 2021, registered with Songir Police Station, District Dhule, under Sections 302, 307, 324, 323, 504, 506, 143, 147, 148, 149, 120-B, 449 of the Indian Penal Code and under Sections 37(1)(C), 135 of the Maharashtra Police Act.

2. Facts leading to this application are that on 27th May 2021 at 11:30 p.m. the informant heard commotion outside of his house. When he peeped out of the window, he saw that his paternal aunt by the name of Mangalbai Bhagwan Thakare,

Sarlabai Sanjay Savale, husband of paternal aunt by the name of Sanjay Gokul Savale, and other relatives by the name of Deepak Sanjay Savale, Dnyaneshwar Sanjay Savale, Hemraj Bhagwan Thakare, Dnyaneshwar Bhagwan Thakare and Yedbai Rupchand Ahire were there outside his house. Applicant - Dnyaneshwar Bhagwan Thakare was armed with an iron rod and other accused were armed with sticks. When he opened the door, applicant assaulted him on head. Other accused beat him with sticks on his hand, legs and back. When his father Ratilal Patil came to his rescue, he was assaulted by the accused persons. Ratilal Patil was shifted to the Hospital. During the treatment, Ratilal Patil died. On these allegations, FIR came to be lodged on the basis of which Crime came to be registered under the aforesaid Sections.

3. Heard Shri A.S.Savale, learned counsel for the applicant and Shri G.O.Wattamwar, learned APP for the respondent-State.

4. Shri Savale, learned counsel for the applicant submits that the post mortem report shows that the injuries sustained by the deceased were on his legs. He did not sustain any injury on any vital part of the body. Therefore, it is clear that the applicant and other accused did not have any intention to cause death of the deceased. He submits that except the applicant, all other

accused have been released on bail. According to Shri Savale, learned counsel, the case papers of the Hospital clearly show that the death was due to heart attack. He submits that, therefore, this is not a homicidal death.

5. Shri Wattamwar, learned APP for the respondent-State submits that the applicant caused fracture to the legs of the deceased and because of the complications, the deceased passed away. He submits that, therefore, it is the case under Section 302 of the Indian Penal Code. He submits that the applicant and other accused had formed unlawful assembly and since it is joint liability, applicant is also responsible for murder of the deceased. For this purpose, he placed reliance on the case *Manno Lal Jaiswal Vs. State of Uttar Pradesh and Another* [2022 SCC OnLine SC 89].

6. Charge-sheet is filed. On perusal of the charge-sheet, it is seen that the deceased, as per the post mortem report, had injuries on his legs. He had abrasion on forehead. All the other injuries were not on vital part of the body and cause of death is shown to be 'Haemorrhage and shock due to injuries described'. The case papers produced alongwith the charge-sheet show that the deceased died due to heart attack. *Prima facie* it appears

that the applicant and other accused did not have intention to cause death as site selected for causing injuries was not any vital part of the body. He has no criminal antecedents. He is not likely to flee from justice as he has house property at village Shirdhane, Tq.and Dist.Dhule. In this view of the mater, I am inclined to release the applicant on bail. Hence, the order :-

ORDER

- i) Bail Application is allowed.
- ii) Applicant be released on P.R.Bond of Rs.45,000/- (Rs. Forty-five thousand only) with one solvent surety in the like amount, in connection with Crime No.048 of 2021, registered with Songir Police Station, District Dhule, under Sections 302, 307, 324, 323, 504, 506, 143, 147, 148, 149, 120-B, 449 of the Indian Penal Code and under Sections 37(1)(C), 135 of the Maharashtra Police Act, and on condition that he shall not tamper the prosecution evidence and he shall not enter into the village Nandane till the conclusion of the trial.
- iii) Bail Application is disposed of.
- iv) It is clarified that the observations made in this 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)
JUDGE**