

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION N.280 OF 2022

KASHIRAM HANMANT JADHAV
VERSUS
THE STATE OF MAHARASHTRA

.....
Advocate for Applicant : Mr. S. S. Jadhav
APP for Respondent-State : Mr. V. S. Badakh
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CORAM : SMT.VIBHA KANKANWADI, J.

**Date of Reserving the Order :
25-04-2022**

**Date of Pronouncing the Order :
04-05-2022**

ORDER :

1. Present applicant has been arrested on 19-05-2021 in connection with Crime No.124 of 2021, registered with Shirur Anantpal Police Station, District Latur, for the offence punishable under Sections 302, 307, 323, 504, 506 of Indian Penal Code.
2. Heard learned Advocate Mr. S. S. Jadhav for applicant and learned APP Mr. V. S. Badakh for respondent-State. In order to cut short, it is stated that both of them have made submissions in support of their respective contentions.
3. At the outset, it is to be noted that the charge-sheet has been

filed after completion of investigation, and therefore, the custodial interrogation of the applicant is not required for the purpose of investigation. The FIR has been lodged by one Kamlabai Lalu Pawar on 11-05-2021, at that time it was under Section 307, 504, 506 of IPC. She was referring to an incident that had alleged taken place on 08-05-2021. It is stated that at about 05.00 p.m. when she was along with her husband Lalu and son Jyotiram and daughter-in-law Sheetal in the house, at that time present applicant went to her house and invited Jyotiram for a non-veg meal. Jyotiram refused, however, applicant forced him by holding his hand to go along with him. Around 06.00 p.m. they heard loud noise below a tamarind tree which was nearby, and therefore, informant and her husband went towards the tree. They found that the applicant was assaulting Jyotiram with stick on his head. They were separated. At that time the other persons also intervened and by giving threat and abuses, the applicant went away. Informant asked Jyotiram as to what had happened, then he told that when they were eating, he asked for the return of amount of Rs.500/- which he had given to applicant and applicant asked as to when he had given, and then started abusing by saying that he would kill Jyotiram. He started assaulting by the wooden stick on his head. Interesting point to be noted is that the

informant says that they were having hope that Jyotiram would be cured, no treatment was given. Thereafter, on 10-05-2021 his head was paining, and therefore, he was taken to police station who referred him to Primary Health Centre, Nitur. It was told that the injury is serious and he was then referred to Civil Hospital, Latur. Civil Hospital, Latur referred him to Solapur, and therefore, while going to Solapur she lodged the report. This gives a picture that immediately after the incident, the informant and her family members had not got that the injury was serious. Same statements have been given by the husband of the informant and wife of deceased. If injury certificate of the deceased issued by Primary Health Centre, Nitur is considered, then it shows contusion on occipital area and it is said to be grievous. There is also injury certificate of the informant which states CLW on left parietal region and it is simple. Jyotiram expired on 17-05-2021 and the Column No.17 gives three injuries which are stated to be ante mortem. First is, Therapeutic craniotomy surgical incised wound with 33 stitches of size 26 cm over left fronto-parieto-temporal region. After removing the stitches, it showed underlying bony flap of size 7cm x 5 cm absent with reddish brown hemorrhagic clots. The second injury is also Therapeutic linear stitched wound of size 7 cm over left side of

abdomen, horizontally placed. The third injury is, therapeutic injection mark over dorsum of right hand. It is rather questionable as to whether really these injuries were ante mortem and whether the doctor could have related to the alleged incident dated 08-05-2021. The probable cause of death has been given as head injury but it is to be noted that evidence will have to be gone into as to what could be the age of the injuries. Even the Medical Officer of Primary Health Centre, Nitur, has stated that age of the injury would be more than 24 hours. Whether the said death can be said to be homicidal and befitting in Section 299 of IPC punishable under Section 302 of IPC is required to be considered. Now the investigation is over and charge-sheet is filed. The weapon with which the injury is stated to have been caused has been recovered. Under such circumstances, when it will take long time to stand the trial of the applicant, he deserves to be released on bail, however taking into consideration the apprehension expressed by the learned APP, the safety of the prosecution witnesses as well as for avoiding tampering with the evidence, strict conditions are required to be imposed. Hence, following order.

ORDER

- 1) The application is hereby allowed.

- 2) Applicant Kashiram Hanmant Jadhav, who has been arrested in connection with Crime No.124 of 2021, registered with Shirur Anantpal Police Station, District Latur, for the offence punishable under Section 302, 307, 323, 504, 506 of Indian Penal Code, he be released on P.R. of Rs.30,000/- with two solvent sureties of Rs.15,000/- each.
- 3) The applicant shall not tamper with the evidence of the prosecution in any manner.
- 4) He shall not visit or reside at village Vanjarwada, Taluka Nilanga, District Latur, till conclusion of the trial.
- 5) He shall not indulge in any criminal activity.
- 6) Before submission of bail papers, the applicant should give complete address of his residence with his mobile number. So also he should comply with the requirements under paragraphs No.12 (1) to (6) of Chapter I of Criminal Manual, whichever are applicable.
- 7) Bail before Trial Court.

(SMT. VIBHA KANKANWADI)
JUDGE

vjg/-.