

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

BAIL APPLICATION NO. 298 OF 2022

Dipak Shankarrao Rapatwar

..APPLICANT

VERSUS

State of Maharashtra

..RESPONDENT

....
Mrs. P.V. Bodke Patil, Advocate for applicant
Mr. G.O. Wattamwar, A.P.P for respondent - State
....

**CORAM : R.G. AVACHAT, J.
DATE : 20th JULY, 2022**

PER COURT :

1. This is an application for bail under Section 439 of Code of Criminal Procedure. The applicant has been arrested in connection with Crime No. 123 of 2021 registered with Mudkhed Police Station, Dist. Nanded for the offences punishable under Sections 302, 326, 324, 323, 504 read with Section 34 of the Indian Penal Code and under Section 4 read with 25 of the Arms Act.

2. Heard. Perused First Information Report ("F.I.R.") and related police papers.

3. The F.I.R. has been lodged by the son of the deceased. The informant runs a chicken shop. The applicant alongwith main accused –

Gurumukhsingh had purchased chicken from the informant's shop without paying therefor. A quarrel had, therefore, ensued between the informant and both of them. After the shop was closed, the informant came home and narrated the incident to his mother. She, therefore, approached the main accused – Gurumukhsingh to enquire as to why did he assault the informant. Gurumukhsingh was armed with sword. He assaulted the mother of the informant therewith. The informant's father learnt about the same. He, therefore, went towards the house of Gurumukhsingh to enquire about the incident. Both, the applicant and Gurumukhsingh were together. Gurumukhsingh was armed with sword. He assaulted the father of the informant therewith. The father of the informant was seriously injured thereof and died on the spot. No overt act has been attributed to the applicant herein except his presence with the main accused.

4. Learned A.P.P. could not point out from the statements of the witnesses any further role of the present applicant in the alleged crime.

5. True, the applicant has criminal antecedents, but in the present crime there is prima facie nothing even to suggest his role for invoking Section 34 of the I.P.C., since he was simply shown present alongwith the main accused when he (main accused) assaulted the father of the informant with sword. As such, it is a case for grant of bail. There are prim afacie observations for grant of bail only.

6. In view of above, the application deserves to be allowed. Hence I pass the following order :-

ORDER

(I) The bail application is allowed.

(II) The applicant be released, in connection with Crime No. 123 of 2021 registered with Mudkhed Police Station, Dist. Nanded for the offences punishable under Sections 302, 326, 324, 323, 504 read with Section 34 of the Indian Penal Code and under Section 4 read with 25 of the Arms Act, on executing PR. Bond in the sum of Rs.15,000/- (Rupees Fifteen Thousand) with one surety in the like amount.

(III) The applicant shall not tamper with the prosecution evidence.

(R.G. AVACHAT, J.)

SSD