

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

BAIL APPLICATION NO.300 OF 2022

Pravin @ Pappu S/o Ramchandra Gaikwad ...Applicant.

VERSUS

The State of Maharashtra ...Respondent.

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Mr. V.V. Deshmukh, Advocate for the applicant.

Mr. V.S. Badakh, APP for the respondent-State.

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CORAM : S.G. MEHARE, J.

DATED : 14th JUNE, 2022.

PER COURT:-

1. Heard learned counsel for the applicant and learned APP for the State.
2. The incident happened early in the morning at 08.00 am in the country liquor shop. The allegations reveal that the deceased and the present applicant knew each other prior to the incident. The deceased succumbed to the injuries sustained to him in the assault made by the applicant with a broken liquor bottle on his neck.
3. Learned counsel for the applicant would submit that the incident happened in the spur of the moment. The deceased asked the applicant to bring Gutka, and when he denied the orders of the deceased, he rushed at him and told him he would beat him. Therefore, the incident happened, and he assaulted the deceased in a fit of anger. Learned counsel for the applicant would also argue that

the applicant is the only bread earner of his family. There are no antecedents to his discredit. No purpose would be served by keeping the applicant behind bars. The applicant has been languishing behind bars for ten months. A charge sheet is filed, and nothing is to be investigated against him. He also added that there was a single blow; therefore, the intention to commit murder cannot be inferred against the applicant.

4. Learned APP has vehemently opposed the application contending that the applicant was aggressive. He had broken the bottle of liquor lying in the liquor shop and assaulted the vital part of the deceased. Assault on the vital part itself is the evidence of the intention to kill. The number of injuries is immaterial. The injury suffered by the applicant was serious, and consequently, he succumbed to the same injury. The applicant was a habitual drunkard and used to demand money from the deceased for liquor. Having regard to the gravity of the offences, there are no grounds to consider the family background of the applicant. He lastly prayed to dismiss the application.

5. There appears substance in the arguments advanced by the learned APP that the number of injuries is immaterial. The nature of injury plays a vital role in inferring the intention. The accused had caused a single blow injury with a broken liquor bottle on the neck of the deceased, which was sufficient to cause the death in the ordinary

course of life. The theory of the happening of the incident in the spur of the moment appears not convincing. It is a matter of evidence in the trial. The offence is apparently serious and grave. No circumstances are in favour of the applicant for bail. Hence, the application stands dismissed.

(S.G. MEHARE, J.)