

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

915 ANTICIPATORY BAIL APPLICATION NO.253 OF 2022

- 1) SAMBHAJI MADHAV NAMWAD
- 2) ARUNA D/O SADASHIV NAMWAD

VERSUS

THE STATE OF MAHARASHTRA

...

Mr. V.D. Gunale, Advocate for the applicant No.2

Mr. A.M. Phule, APP for the respondent

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CORAM : SMT. VIBHA KANKANWADI, J.

DATE : 22nd MARCH, 2022

ORDER :

1 The applicant No.2 is apprehending his arrest in connection with Crime No.176/2021 dated 01.12.2021, for the offence punishable under Section 302, 307, 504, 506 read with Section 34 of the Indian Penal Code, 1860.

2 It will not be out of place to mention here that when the matter was on board on 07.03.2022, this Court was not convinced and was not inclined to grant any relief in favour of applicant No.1 and, therefore, the

application was withdrawn as against the applicant No.1.

3 Heard learned Advocate Mr. V.D. Gunale for the applicant No.2 and learned APP Mr. A.M. Phule for the respondent. In order to cut short, it can be said that they have argued in support of their respective contentions.

4 Initially the offence was registered under Section 307 of the Indian Penal Code, however, it appears that later on as the injured expired, Section 302 of the Indian Penal Code came to be added. First Information Report has been lodged by one Chhayabai Maroti Kakare and the deceased is her father. She states that as the accused persons had given threat to kill, father had asked her to come to village. When she was proceeding towards her paternal home, she could find that her father was returning home from field. He was followed by accused Sambhaji Namwad, Aruna Namwad and Rushi Namwad. They started saying to her father that as he has come running from the field he is saved, but now they would kill him. Sambhaji Namwad gave blow of stick on the head of deceased at about 5.45 p.m. The applicant No.2 and co-accused Rushi were abusing and giving kicks to the deceased. Even accused Sadashiv then came at the spot suddenly while abusing the deceased and jumping on the chest of deceased he caused the injury by his knees. When other people came to rescue, the accused persons

fled away, however, deceased had sustained grievous injury. He was then shifted to hospital at Jalkot and thereafter referred to Government Hospital, Udgir. At Udgir they were asked that since condition of the deceased is serious he should be taken to Latur. After he was admitted to Udgir Hospital itself, the First Information Report came to be lodged. But it appears that thereafter the deceased succumbed to death.

5 Thus, the perusal of the First Information Report would show that the role attributed to the present applicant No.2 lady that she had abused and allegedly kicked the deceased. Independently it may not cause offence under Section 302 of the Indian Penal Code, however, other Sections are definitely there but that does not require her custodial interrogation and, therefore, she deserves to be released on bail. The interim protection granted to her deserves to be confirmed. Accordingly, it is confirmed. Hence, following order.

ORDER

1 Application stands allowed.

2 The ad-interim protection, granted by this Court earlier to applicant No.2 vide order dated 07.03.2022, is hereby confirmed and made

absolute. In other words, if the applicant No.2 is not formally arrested, in the event of arrest of the applicant No.2 viz. **Aruna Sadashiv Namwad**, in connection with Crime No.176/2021 dated 01.12.2021, for the offence punishable under Section 302, 307, 504, 506 read with Section 34 of the Indian Penal Code, 1860, she be released on P.R. of Rs.30,000/- (Rupees Thirty Thousand only) with two solvent sureties of Rs.15,000/- (Rupees Fifteen Thousand only) each.

3 Applicant shall not indulge in any criminal activity nor she should tamper with the evidence of the prosecution, in any manner.

4 Applicant shall cooperate with the investigation.

(Smt. Vibha Kankanwadi, J.)

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