

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

**921 BAIL APPLICATION NO. 340 OF 2022
WITH APPLN/1089/2022 IN BA/340/2022**

**PRASHANT BABAN SHELKE
VERSUS
THE STATE OF MAHARASHTRA**

Shri. Satej S. Jadhav, Advocate for the applicant
Shri. V. S. Badakh, APP for the respondent/State
Shri. Amarjitsing B. Girase, Advocate for the informant.

**CORAM : M. G. SEWLIKAR, J.
DATED : 7th APRIL, 2022**

PER COURT :-

1. This is an application under Section 439 of the Code of Criminal Procedure for releasing the applicant on bail in connection with Crime No. 0664 of 2021 for the offence punishable under Sections 302, 504 read with Section 34 of the Indian Penal Code registered with Pathardi Police Station, District Ahmednagar.

2. Facts leading to this application in short are that informant is the uncle of the deceased Rajendra Ramkisan Jedhe. On 3rd September, 2021 at 9.00 p.m. informant was giving fodder to cattle. At that time one Kishor Bhausahab Shelke called out Rajendra Jedhe (since deceased). Rajendra

came out. Kishor Shelke, Pravin Shelke, Baban Shelke held him and started abusing him. At that very moment Prshant Shelke, the applicant took out a knife and stabbed him in the abdomen. On these allegations FIR came to be lodged.

3. Rajendra was shifted to Sub District Hospital, Pathardi. After primary aid, he was shifted to Civil Hospital, Ahmednagar. He was declared dead on arrival.

4. Heard learned counsel Shri. Jadhav for the applicant, learned APP Shri. Badakh for the respondent/State and learned counsel Shri. Girase for the informant.

5. Learned counsel Shri. Jadhav submits that the incident narrated in the FIR has been completely changed by the informant in his supplementary statement. He submits that in the FIR it is alleged that the incident took place in front of the house of the informant whereas in the supplementary statement the incident is stated to have taken place on the road. He submits that the informant completely changed the course of the incident. In the supplementary statement the informant stated

that the incident took place while the deceased Rajendra Jedhe, applicant and others were dancing deceased wanted the song to be changed to which applicant objected and thereafter applicant stabbed the deceased after he was held from behind by Kishor Shelke. He submitted that incident took place on the spur of the moment.

6. Learned APP Shri. Badakh submits that there is no change in the incident. He submits that the incident took place on the road while all including deceased and applicant were dancing. Informant changed the nature of the incident as he feared violation of restrictions imposed on account of Covid-19. He submits that informant feared that if he narrated the correct incident he would be prosecuted for violations of the directions on account of Covid-19. He, therefore, filed the FIR giving the incident to have happened the front of the house.

7. Learned counsel Shri. Girase for the informant submits that applicant and the deceased were on enimical terms. He submits that witnesses have stated that there was an enmity between the deceased and the applicant. They have

stated that about two years before the incident there was fighting on account of a small incident. This dispute was amicably settled but applicant was picking up quarrels with deceased every now and then. However, Rajendra did not make any complaint. He further submits that applicant because of this enmity stabbed Rajendra Jedhe in the abdomen and committed murder of the deceased Rajendra Jedhe. He submits that his murder was committed out of enmity and to wreak vengeance. He submits that this was not on account of spur of the moment. He submits that there are 17 witnesses who have specifically deposed about this incident. He further submits that now in the village only the widow of the deceased is staying alone. She does not have support any one.

8. I have given thoughtful consideration to the submissions of all the learned counsel. On 4th September, 2021 the incident is alleged to have taken place at 8.30 p.m. to 9.00 p.m. In that night about 15-20 persons were dancing among them were applicant and the deceased Rajendra. At that time Rajendra and Viju Prakash Jedhe wanted the song to be changed. But, applicant wanted the song to be continued.

Thereafter, scuffle ensued in which applicant fell down. Soon thereafter, Kishor Shelke held the deceased from behind and applicant stabbed in the abdomen of the deceased. This sequence of events shows that the incident took place on the spur of the moment without there being any premeditation.

9. Learned counsel Shri. Girase submits that the applicant has criminal antecedents. However, this incident took place on the spur of the moment. In this view of the matter, I am inclined to release the applicant on bail. Hence the order.

ORDER

1. Application is allowed.
2. Applicant be released on bail on his furnishing PR bond of Rs. 50,000/- (Rupees Fifty Thousand only) with one solvent surety in the like amount in connection with CR No. 0664 of 2021 under Sections 302, 504 read with Section 34 of the Indian Penal Code registered with Pathardi Police Station, District Ahmednagar, on condition that he shall not tamper the prosecution evidence and shall stay away out of the Taluka Pathardi till the conclusion of the trial.
3. Application is disposed of.
4. It is clarified that the observations made in the above

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.

5. Pending application, if any, stands disposed of.

[M. G. SEWLIKAR, J.]

ssp