

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

926 BAIL APPLICATION NO.349 OF 2022

MAHESH HIRALAL SHINGOTE
VERSUS
THE STATE OF MAHARASHTRA

...
Advocate for Applicant : Mr. Brahme Shailesh P.
PP for Respondents/State : Mr. D.R. Kale
...

CORAM : M.G. SEWLIKAR, J.
DATE : 8th April, 2022

PC.:-

By this application, applicant is seeking bail in connection with Crime No. 547 of 2021 registered with MIDC Waluj Police Station, District Aurangabad under Section 302, 143, 147, 148, 149 of the I.P.C.

2. Facts in brief are that informant Abhijit Fate is the brother of Vishal Fate (since deceased). It is the prosecution case that he got a call from his friend Sagar Majhettiya informing him that a quarrel was going on between Vishal and others in front of Mrignayani Hotel. When the informant reached Mrignayani Hotel at 10.20 pm, he found that in front of Jai Bhavani Family Restaurant accused Ajay Pradhan, Namdeo Pradhan, Sachin Pradhan, Atish Kale, Darshan Choudhari and three unknown persons were beating Vishal Fate with kicks and fist blows and with stone. Accused-Ajay pelted a big stone on

the head of Vishal Fate. On seeing this the informant ran away. Vishal Fate was shifted to the hospital. Vishal Fate was declared dead by the doctors at Government Hospital at Aurangabad at 10.45 pm. On these allegations FIR came to be lodged.

3. Heard learned counsel Shri Brahme for the applicant and Shri Kale learned PP for the State.

4. Learned counsel Shri Brahme submits that from the FIR, it is clear that overt act is attributed to Ajay Pradhan. FIR does not mention the name of the applicant. Even in the charge-sheet, no specific overt act is attributed to the applicant. As per *post mortem* report cause of death is head injury, and that was caused by accused-Ajay Pradhan.

5. Learned PP submits that the accused had formed unlawful assembly and applicant was the member of the said assembly. Applicant was present at the spot of the incident and he was one of the persons who were dragging deceased-Vishal from the hotel towards the car. He submits that considering his role, applicant does not deserve to be released on bail.

6. Charge-sheet is filed.

7. Two witnesses by the name of Mayur Popat Sasawade and

Ramrao Sopanrao Kadam, both of them have stated that there was a scuffle between applicant, Ajay Pradhan and Sachin Pradhan on one hand and deceased-Vishal on the other hand. Accused-Sachin Pradhan, Ajay Pradhan applicant and Deepak Pradhan were dragging deceased-Vishal from the hotel and were taking him to the car. Deceased-Vishal got himself released from their clutches and started running. Accused Ajay Pradhan and Sachin Pradhan chased him. When Vishal slipped and fell down, accused-Ajay pelted a big stone on the head of Vishal. This sequence of events clearly shows that the role of the applicant was restricted to the incident of dragging Vishal Fate up to the car. In this view of the matter, I am inclined to release the applicant on bail. Applicant does not have criminal antecedents. He is not likely to flee from justice. No extra ordinary circumstance is brought on record to deny bail to the applicant. In this view of the matter, the following order is passed:

ORDER

- I) Application is allowed.
- II) Applicant be released on PR bond of Rs.35,000/- with one solvent surety in the like amount, in connection with Crime No.547/2021 under Section 302, 143, 147, 148, 149 of the I.P.C. with MIDC Waluj Police Station, District Aurangabad on condition that he shall not tamper the prosecution evidence.
- III) These observations are made only for the disposal of this

application and the learned trial Court shall not get influenced by these observations and can come to its independent conclusion during trial.

[M.G. SEWLIKAR, J.]