

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

BAIL APPLICATION NO. 453 OF 2022

1. Pankaj Nagorao Ghode
Age: 22 years, Occu.: Agri.,

2. Aatmaram Nivrutti Ghode
Age: 36 years, Occu.: Agri.,

Both R/o Niwali (Bk.), Tq. Jintur,
Dist. Parbhani

..APPLICANTS

VERSUS

State of Maharashtra

..RESPONDENT

....

Mr. N.S. Ghanekar, Advocate for applicants
Mr. G.O. Wattamwar, A.P.P for respondent - State

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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. 61 of 2021 registered with Bori Police Station, Dist. Jalna for the offences punishable under Sections 302, 307, 143, 147, 148, 149, 504 and 506 of the Indian Penal Code ("I.P.C.").

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

3. The F.I.R. has been lodged by the widow of the deceased on 01st June, 2021 in relation to the incident that took place in the front yard of her house by 08.00 p.m. on 31st May, 2021. It has been alleged in the F.I.R. that the informant was engaged in cooking. All the accused came together. They were armed with axe, sticks and iron rods. All of them questioned the deceased as to why he abused them under the influence of liquor. When the deceased told them to have never abused them, Applicant No.1 – Pankaj assaulted on the head of the deceased with an axe. Thereafter, rest of the accused persons assaulted the deceased with sticks and iron rods.

4. The postmortem report indicates the deceased died of head injury. The description of the injury, indicates it to be a chop injury, could be attributable to Applicant No.1 – Pankaj, who wielded an axe. The Court is, therefore, not inclined to grant bail to Applicant No.1 – Pankaj.

5. Learned counsel for the applicants, therefore, came around to withdraw the application of Applicant No.1 – Pankaj.

6. So far as regards Applicant No.2 – Aatmaram is concerned, learned A.P.P. would submit that he had dragged the deceased and assaulted on his head and right hand causing fracture. As such, he could be said to

have caused grievous injury and the same would be an offence punishable under Section 326 of the I.P.C., if the stick wielded by him would be held to be a lethal weapon.

7. True, based on Section 149 of the I.P.C., Applicant No.2 – Aatmaram and all other co-accused could be said to have committed an offence punishable under Section 302 read with Section 149 of the I.P.C. Except Applicant No.2 – Aatmaram rest of the co-accused in the said crime have been granted bail. On the ground of parity and the role played by Applicant No.2 in the alleged offence and he having been behind the bars for about one year and one month, the Court is inclined to grant him bail.

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

ORDER

(I) The bail application is partly allowed.

(II) Application of Applicant No.1 - Pankaj Nagorao Ghode stands disposed of withdrawn.

(III) The Applicant No.2 Aatmaram Nivrutti Ghode - be released, in connection with Crime No. 61 of 2021 registered with Bori Police Station, Dist. Jalna for the offences punishable

under Sections 302, 307, 143, 147, 148, 149, 504 and 506 of the Indian Penal Code, on executing P.R. Bond in the sum of Rs.15,000/- (Rupees Fifteen Thousand) with one surety in the like amount.

(IV) He shall not tamper with the prosecution evidence.

(R.G. AVACHAT, J.)

SSD