

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO.475 OF 2022

AMOL SUDHAKAR WAGHMARE
VERSUS
THE STATE OF MAHARASHTRA

.....
Advocate for Applicant : Mr. S. J. Salunke
APP for Respondent-State : Mr. V. S. Badakh
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CORAM : SMT.VIBHA KANKANWADI, J.
DATE : 11-04-2022

ORDER :

1. The applicant has been arrested on 26-11-2020 by Police Station Naldurg, District Osmanabad, for the offence punishable under Section 302, 307, 504, r.w.34 of IPC. Present application has been filed under Section 439 of Cr.P.C.
2. Heard learned Advocate Mr. S. J. Salunke for applicant and learned APP Mr. V. S. Badakh for respondent-State. In order to cut short, it is stated that both of them have made submissions in support of their respective contentions.
3. The investigation is complete and charge-sheet has been filed on 22-02-2021, and therefore, the custodial interrogation of the applicant is not required for the purpose of investigation. It is now therefore

required to be seen as to what the evidence that has been collected against the applicant. Applicant is accused No.1. The FIR has been lodged by one Sunita Yashwant Chimane in respect of assault and death of her husband Yashwant Chimane by the present applicant and co-accused. In the FIR Sunita has stated that her husband had gone to meet his brother at about 06.00 p.m. and was returning back at about 06.30 p.m. At that time, Sudhakar Waghmare had given cut to him, and therefore, Yashwant started asking him as to why he has given cut. Sudhakar started abusing Yashwant and at that time the present applicant Amol who is son of Sudhakar came with stick. Yashwant was assaulted by the applicant by that stick on the back side of head. As a result of which Yashwant fell down and sustained grievous injury. He was then taken to hospital and on the same day she lodged the report i.e. on 23-11-2020. Yashwant Chimane had not regained consciousness. By way of supplementary statement, the informant has stated that her husband expired on 25-11-2020. Initially the offence was registered under Section 307, 504 r.w.34 of IPC, however, after death of Yashwant Section 302 of IPC has been added. As regards the evidence that has been collected is concerned, there are eyewitnesses to the incident. All of them are saying that the present applicant had given blow to the

head of deceased. The provisional cause of death certificate shows the probable cause of death as head injury. No doubt, the reason for the quarrel appears to be trifle but the force with which the blow was given has resulted in death. The post mortem report column No.17 states in all five injuries and it is stated that all of them are ante-mortem in nature. There was underscalf hematoma on left fronto-parieto-temporal region. All these indicate the force with which the blow would have been given. It also indicates the intention, and therefore, when there is prima facie evidence on record, case is not made out to grant bail to the applicant. Hence, application stands rejected.

(SMT. VIBHA KANKANWADI)
JUDGE

vjg/-.