

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

**APPLICATION FOR CANCELLATION OF BAIL NO.55 OF 2021
THE STATE OF MAHARASHTRA
VERSUS
RAMDAS S/O. DAGDU MISAL AND OTHERS**

WITH

**APPLICATION FOR CANCELLATION OF BAIL NO.90 OF 2021
CHANDRAKALA W/O. BABAN JOSHI
VERSUS
RAMDAS S/O. DAGDU MISAL AND OTHERS**

Mr.V.M. Kagne, APP for applicant/State in ACB No.55 of 2021.

Mr.A.K. Tiwari, Advocate for applicant in ACB No.90 of 2021.

Mr.P.A. Bhosle, Advocate for respondent Nos.1 to 6.

**CORAM : SMT. VIBHA KANKANWADI, J.
DATED : 10.03.2022**

PC :-

01. In these two connected applications, one is filed by the State and another is filed by the informant under section 439(2) of the Cr.P.C. to challenge the grant of regular bail by learned Adhoc District Judge-1 and Additional Sessions Judge, Jalna by order dated 29.01.2021 in connection with Crime No.191 of 2020 registered with Hasnabad Police Station, Tal. Bhokardan, Dist. Jalna, for the offence punishable under sections 307, 143, 147, 148, 149, 323, 504, 506 of the Indian Penal Code.

02. In both the cases respondent Nos.1 to 6 are accused Nos.1,2 and 4 to 7.

03. Heard Mr.V.M. Kagne, learned APP for applicant-State in ACB No.55 of 2021, Mr.A.K. Tiwari, learned Advocate for applicant in ACB No.90 of 2021 and Mr.PA. Bhosle, Advocate for the respondents.

04. The FIR has been lodged by one Chandrakala Baban Joshi, who is applicant in ACB No.90 of 2021. She is eye-witness to the incident and when the FIR was lodged, it was under section 307 and other sections. However, it appears that later on injured Ramdas Kaduba Joshi, who was father-in-law of informant, succumbed to the injuries and section 302 of the IPC came to be added. The provisional post-mortem report of Ramdas Kaduba Joshi shows that his probable cause of death is hemorrhagic shock due to multiple injuries. It is to be noted that the FIR has been lodged against in all seven persons and therefore it is required to be seen as to who was the author of the injuries caused to Ramdas and what role has been attributed to present respondent Nos. 1 to 6. Original accused No.3 Pralhad Ramdas Misal is not before this

Court. That means he is not respondent in these cases. If we consider the FIR, then as against accused No.1 Ramdas Dagdu Misal, it is stated that he assaulted Ramdas Kaduba Joshi by stick on his head, accused No.2 – Vilas Ramdas Misal had tried to run over tractor on witness Yogesh Appa Joshi causing him injuries to his chest. Accused Nos. 4 to 7 i.e. Maruti, Bhagwan, Samadhan and Ganesh had caused assault by stick to the witness. As regards accused No.3 Pralhad, who is not before this Court, it is stated that he assaulted Ramdas Kaduba Joshi by axe and blow was received on the neck causing him serious injury. The statements of witnesses are on the same line. From accused Pralhad, axe has been recovered. The sticks have also been recovered alleged to have been used in the commission of crime. Both the applicants have not provided complete post-mortem report. However, from the impugned order, it can be seen that the medical reports which were before the Court were considered. A detailed order has been passed by the learned Additional Sessions Judge. It has been stated that fatal injuries to deceased Ramdas Joshi have been caused by accused Pralhad. Present respondent Nos. 1 to 6 appear to have taken up defence of right of private defence. However, whether to consider exceeding the limit of private defence, that point has also been considered and therefore application was rejected against accused

Pralhad. But as regards role attributed to other accused i.e. present respondent Nos.1 to 6 is concerned, it is stated that they had not caused fatal injuries to deceased and therefore discretion has been used. A well reasoned order has been passed. Therefore, there is no question of interfering with the said order.

05. The applications stand rejected.

[SMT. VIBHA KANKANWADI, J.]