

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

BAIL APPLICATION NO. 632 OF 2022

Sachin Vasant Nehe	... Applicant
Versus	
The State of Maharashtra	... Respondent

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Mr. V. D. Sapkal, Senior Advocate i/b Mr. S. R. Sapkal, Advocate for applicant
Mr. G. O. Wattamwar, APP for respondent – State

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CORAM : R. G. AVACHAT, J.
DATED : 14th JULY, 2022

PER COURT :-

This is an application for bail under Section 439 of the Code of Criminal Procedure. The applicant has been arrested in connection with Crime No.0002/2021, registered with Loni Police Station, District Ahmednagar, for the offences punishable under Sections 302, 307, 326, 504, 506, 143, 147, 148, 149 of the Indian Penal Code.

2. Heard.

Perused the First Information Report (FIR) and the related police papers.

3. The FIR has been lodged by one Kishor Kadu on 01.01.2021. It has been averred in the FIR that the informant is taking education of Bachelor of Mechanical Engineering (B.E.). His family is comprised of his parents and brother Gaurav. Gaurav was serving in a company at Bhoisar, Thane. The informant's family has an agricultural land in Gut No.60 in Lohgaon Shivar, near hotel Green Park. The informant's grand-father had sold one *Acre* of land therein to Vasant Nehe (father of the applicant herein). The informant's father, therefore, instituted a suit in the Court at Rahata. The Court has granted injunction order (not to alienate). As such, there was dispute between the family of the informant and that of the applicant, over the agricultural land.

It is averred in the FIR that the informant and his family members had gone to Vaijapur for attending the engagement ceremony of his maternal Aunt's son on 31.12.2020. The informant and his brother Gaurav (deceased) were returning their home on a motorbike after the function was over. While they were passing by hotel Green Park, they saw the applicant and other four persons (Co-accused, named in the FIR) in the field. They were engaged in ploughing the field. The informant saw that iron angles were raised

around the field. Both, the informant and his brother Gaurav went to them and asked not to plough the field until their father comes. The accused persons picked up quarrel with the informant and his brother. Oral wrangle took between them. Co-accused Amol came with a sickle. Kishor, Vasant and Sachin (co-accused) had iron rods with them. The applicant came with hoe (कुदळ). Those armed with iron rods, started beating up Gaurav therewith. Gaurav fell down. The informant intervened to save Gaurav. Co-accused Amol assaulted the informant with sickle. The applicant uttered, “ आज कामच करतो ” (now will eliminate). The applicant assaulted on the head of Gaurav with hoe. The others continued to beat up with iron rod. Gaurav fell unconscious. The applicant and co-accused then went away. Persons from the nearby, brought both of them first to Primary Health Centre (PHC) Babhaleshwar. Gaurav was rushed to Pravara Hospital, Loni. He did not gain consciousness. He passed away by 6.30 p.m. on 31.12.2020.

4. The learned Senior Advocate would submit that investigation of the crime is over. All the co-accused have been granted bail. According to him, it is the case falling under exception 4 of Section 300 IPC. He meant to say that it was not a case of

premeditation. It was the case of sudden fight in the heat of passion upon sudden quarrel. He, therefore, urged for grant of bail.

5. The learned APP would, on the other hand, urge for rejection of the application considering the seriousness of the offence.

6. Considered the submissions advanced. Perused the FIR and the related police papers. The postmortem report indicates the deceased died of head injury. The head injury has been attributed to the applicant herein. The applicant hit on the head of the deceased with a hoe. The deceased and the applicant were unarmed. Exception 4 of Section 300 IPC reads thus:

“Exception 4. - Culpable homicide is not murder if it is committed without premeditation in a sudden fight in the heat of passion upon a sudden quarrel and without the offender having taken undue advantage or acted in a cruel or unusual manner.”

The facts indicate that the offenders have taken undue advantage and acted in cruel and unusual manner. True, there is a dispute between the two families over the agricultural land. The suit is pending. The facts however *prima-facie* indicate the applicant to have intentionally killed the deceased. The purpose can be served if

the trial Court is requested to commence the trial and conclude the same within a period of twelve months. The application, thus, fails. The same is rejected.

7. The trial Court is requested to conclude the trial within a period of twelve months from the date of receipt of copy of this order.

[R. G. AVACHAT, J.]

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