

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

BAIL APPLICATION NO.648 OF 2022

1. Shivaji s/o Digambar Manurkar
 2. Chakradhar s/o Gopinath Manurkar
 3. Rajesh s/o Gopinath Manurkar
 4. Govind s/o Kondji Manurkar
 5. Ganesh s/o Kondji Manurkar
- ...Applicants

VERSUS

The State of Maharashtra

...Respondent

...

Mr. G.G. Kadam, Advocate for the applicants.
Mr. S.B. Narwade, APP for the respondent-State.

...

CORAM : S.G. MEHARE, J.

DATED : 20th JUNE, 2022.

PER COURT:-

1. Heard learned counsel for the applicants and learned APP for the State.
2. The prosecution has a case that the incident happened on 05.01.2022 while recording the statements of the ration card holders by the revenue officer as there were complaints against the ration shop keeper that he sells ration goods at a higher price and does not issue the receipt. Few statements are in favour of the applicants stating that after recording the statement of the deceased, there was a quarrel, and the deceased fell down and then got up. One of the accused caught his throat and pushed him. When he fell down, he

never got up. The so so-called witnesses have deposed against the accused; however, close relatives like the son of the deceased stated nothing against the accused. In the postmortem report, no injuries were seen on the person of the deceased. The cause of death in the final postmortem report is death due to “cardio-respiratory failure due to acute myocardial infarction”.

3. The learned APP has tried his level best to show that it is an act of the accused that caused the death of the deceased. Hence, the serious offence of murder has been registered against the applicants. He referred to the statement of the eyewitnesses who have given the stereotype statements before the Magistrate under Section 164 of the Criminal Procedure Code. He states that the evidence of eyewitnesses is more relevant than the hearsay witnesses. Therefore, though his son did not depose against the applicants, that does not mean that the accused have not committed the offence. He may be correct in saying so, but the fact remains that the prosecution has no case that the injuries were caused to the deceased due to the acts of the applicants. Besides that, the cause of the death was due to cardio-respiratory failure. The son of the deceased has stated that the deceased was suffering from heart disease. Even if the statements favouring the prosecution have been considered, the question arises whether the acts of the accused are the act of committing the murder of the deceased. After Reading the cause of death in the postmortem report, it cannot be accepted that the acts of the applicants caused the

death of the deceased. Since the investigation is over, there is no possibility of tampering with the prosecution witness.

4. Having regard to the overall facts of the case and the evidence collected by the Investigation Officer, this Court is of the view that no prejudice would be caused to the prosecution if the accused are released on bail. Hence, the following order :

ORDER

- I) The application is allowed.
- II) The applicants, namely (1) Shivaji s/o Digambar Manurkar, (2) Chakradhar s/o Gopinath Manurkar (3) Rajesh s/o Gopinath Manurkar (4) Govind s/o Kondji Manurkar (5) Ganesh s/o Kondji Manurkar be released on bail in Crime No.04/2022 for the offence punishable under Sections 143, 147, 149, 341 and 302 of Indian Penal Code registered with Umri Police Station, Dist. Nanded on executing P.B. and S.B. of Rs.30,000 (Thirty Thousand) each with one or two solvent sureties in the like amount, on the condition that they shall not tamper with the prosecution witness.
- III) They shall attend the trial at each hearing and co-operate with the Court for early disposal of the case.
- IV) Bail before the learned Sessions Court.
- V) Hamdast allowed.

(S.G. MEHARE, J.)