

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

BAIL APPLICATION NO. 764 OF 2022

Vikas Nandu Rahatwad

..APPLICANT

VERSUS

State of Maharashtra

..RESPONDENT

....
Mr. A.K. Bhosle, Advocate for applicant
Mrs. P.V. Diggikar, A.P.P. for respondent - State
....

**CORAM : R.G. AVACHAT, J.
DATE : 22nd 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. 439 of 2021 registered with Satara Police Station, Dist. Aurangabad for the offences punishable under Sections 302, 307 read with Section 34 of the Indian Penal Code.

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

3. Learned A.P.P. has strongly opposed for grant of bail contending that the applicant has played major role in the alleged crime. The applicant has banged the head of the deceased against a slab. It was the first assault.

Then the co-accused, who has been enlarged on bail, assaulted the deceased on his head with a brick. She pointed out an extra-judicial statement made by the applicant and co-accused to one Vishal Devkate. In his statement Vishal Devkate attributed both, the applicant and the co-accused, who has been granted bail, to have confessed before him to have killed the deceased.

4. Statement of Vishal Devkate has been recorded on 03rd October, 2021 i.e. about twenty days after the incident in question. The postmortem report indicates the deceased died of head injury. Both, the applicant and co-accused had assaulted the deceased on his head. The deceased suffered only one head injury. It is just difficult to ascertain whether the deceased died due to his head having been banged against a slab or to have received a blow with a brick. When the similarly placed co-accused has been granted bail, present applicant is entitled for bail on the ground of parity.

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

ORDER

(I) The bail application is allowed.

(II) The applicant be released, in connection with Crime No. 439 of 2021 registered with Satara Police Station, Dist. Aurangabad for the offences punishable under Sections 302, 307

read with Section 34 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.

(III) The applicant shall not tamper with the prosecution evidence.

(R.G. AVACHAT, J.)

SSD