

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

BAIL APPLICATION NO. 848 OF 2022

Vikas Sarjerao Sadashive	... Applicant
Versus	
The State of Maharashtra	... Respondent

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Mr. Chaitanya C. Deshpande, Advocate for applicant
Mr. V. S. Badakh, APP for respondent - State

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CORAM : R. G. AVACHAT, J.

DATED : 15th 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.0729/2021, registered with CIDCO Police Station, District Aurangabad, for the offence punishable under Sections 302 read with 34 of the Indian Penal Code.

2. Heard.

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

3. Learned Advocate for the applicant would submit that the name of the applicant doesn't figured in the FIR. The statements of eye witnesses doesn't attribute him assault with any kind of weapon. He has allegedly beaten up the deceased with fist and kick blows. It was the co-accused Pramod, who went away for a while to fetch an iron rod and gave its number of blows on the leg of the deceased. The deceased died of head injury and multiple injuries to his legs. According to the learned Advocate, the investigation has been over and the charge-sheet has been filed. He, therefore, urged for grant of bail.

4. The learned APP would, on the other hand, submit that although the name of the applicant doesn't figure in the FIR, the eye witness account indicate his involvement in the murder of the deceased on the basis of Section 34 of the Indian Penal Code. He is, thus, equally liable for the offence.

5. Considered the submissions advanced. Admittedly, the name of the applicant doesn't figure in the FIR. The informant did not witness the incidence. The statements of eye witnesses indicate that applicant was in the company of other three co-accused. One of them, namely Sachin had called the deceased out of his house. On

his arrival, they beat him up with fist and kick blows. The applicant too was involved therein. Co-accused Pramod went to a nearby lane and came with an iron rod. He inflicted number of blows on the legs of the deceased with iron rod. From the statement, it is not clear as to who had assaulted on the head of the deceased. The statement indicates the applicant to have beaten up the deceased with fist blows. Considering his role in the alleged offence and the fatal blow to have not been attributed him, the Court is inclined to grant him, bail. Hence, following order is passed:

ORDER

- (i) The Bail Application is allowed.
- (ii) The applicant be released on bail in connection with Crime No.0729/2021, registered with CIDCO Police Station, District Aurangabad, for the offences punishable under Sections 302 read with 34 of the Indian Penal Code, on his executing P. R. bond in the sum of Rs.15,000/- (Rupees Fifteen Thousand) with surety bond of the like amount.
- (iii) The applicant shall not tamper with the prosecution evidence.

[R. G. AVACHAT, J.]