

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

BAIL APPLICATION NO. 856 OF 2022

Rohan Balaji Kamble	... Applicant
Versus	
The State of Maharashtra	... Respondent

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Mr. G. R. Syed, Advocate for applicant
Mr. N. T. Bhagat, 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.0033/2022, registered with Udgir Rural Police Station, District Latur, for the offences punishable under Sections 302, 307, 326, 324, 341, 323, 504, 506, 143, 147, 148, 149, of the Indian Penal Code and under Section 135 of the Maharashtra Police Act.

2. Heard.

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

3. The learned Advocate for the applicant would submit that the name of the applicant figured as number 9 accused in the FIR. He meant to say that the applicant has played a very little role in the alleged offence. He did not assault the one who has died in the incident. According to him, the applicant is 19 years of age and the student of second year B.A. He, therefore, urged for grant of the application.

4. The learned APP would, on the other hand, submit that the applicant and all his family members totally number in nine, formed unlawful assembly. The common object whereof was to commit murder of the mother of the informant and assault his other family members. As such, the applicant cannot escape liability for the offence of murder. He, therefore, urged for rejection of the application.

5. From the FIR, it appears that there was a dispute over the agricultural land. A suit was pending in a Civil Court. The incident took place on 29.01.2022. The informant, along with his father, was proceeding on a motorbike. His brother Parmeshwar, and

mother Kushabai were proceeding on another motorbike. They were destined to visit the house of their sister. On way near village Lohara, the informant's uncle Babu and others named in the FIR including the applicant herein intercepted their way. They picked up quarrel with them. Accused No.1 Babu assaulted the informant's mother on her head with an iron rod. As a result of head injury, she passed away. Co-accused Balaji also assaulted the deceased with stick. The applicant is alleged to have assaulted the informant's father with stick. The injury certificate of the informant's father would indicate him to have suffered two fractures to his leg. It has, however, been mentioned in the FIR that the co-accused Deepak and Shivaji had also assaulted the informant's father with stick earlier than the applicant made similar assault. The learned Advocate meant to said that the fracture injury might be attributable to the other co-accused.

6. On having considered the allegations in the FIR, the applicant is not attributed with a murderous assault. His liability in the offence is sought to be made out based on Section 149 of the Indian Penal Code. It is true that he has assaulted the father of the informant with stick. The applicant is said to be 19 years of age. He is the student of second year B.A. Considering these last three facts,

the Court is inclined to grant him bail on condition that he shall not enter the village until conclusion of trial.

ORDER

- (i) The Bail Application is allowed.
- (ii) The applicant be released on bail in connection with Crime No.0033/2022, registered with Udgir Rural Police Station, District Latur, for the offences punishable under Sections 302, 307, 326, 324, 341, 323, 504, 506, 143, 147, 148, 149, of the Indian Penal Code and under Section 135 of the Maharashtra Police Act, 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 enter the village Lohara, Taluka Udgir, District Latur, until conclusion of the trial.
- (iv) The applicant shall not tamper with the prosecution evidence.

[R. G. AVACHAT, J.]

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