

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

BAIL APPLICATION NO. 1040 OF 2022

1. Yuvraj Dohanya Pawara
(withdrawn by Court's order)

2. Suresh Dohanya Pawara

..APPLICANTS

VERSUS

State of Maharashtra

..RESPONDENT

....
Ms. S.T. Kazi, Advocate for applicants
Mr. N.T. Bhagat, A.P.P. for respondent - State
....

**CORAM : R.G. AVACHAT, J.
DATE : 26th AUGUST, 2022**

PER COURT :

1. Bail application of applicant – Yuvraj Dohanya Pawara has already been disposed of as withdrawn vide order dated 27th July, 2022.

2. This is an application for bail under Section 439 of Code of Criminal Procedure. The applicant has been arrested in connection with Crime No. 251 of 2021 registered with Mhaswad Police Station, Dist. Nandurbar for the offences punishable under Sections 302, 307, 201, 504, 506, 120B read with Section 34 of the Indian Penal Code.

3. Heard. Perused the First Information Report (“F.I.R.”) and related police papers.

4. The F.I.R. has been lodged on 20th June, 2021 by one Himmat Pawara. The incident took place on 18th June, 2021 by 08.30 p.m. Applicant – Suresh is a cousin of the informant – Himmat. On the given day, the applicant and the co-accused – Yuvraj alongwith father of the informant had been to the house of Dohanya Pawara, grandfather of the informant, for effecting partition of family land. A quarrel ensued amongst them. It is alleged that co-accused – Yuvraj was armed with an axe. The applicant – Suresh had with him an iron rod. Another co-accused – Dohanya was armed with a wooden log. The trio had assaulted Sambhaji, father of the informant. It is also alleged that co-accused – Yuvraj assaulted on the head of Vansing Pawara, brother of the informant, with an axe. The applicant – Suresh is alleged to have pierced the iron rod in the stomach of Vansing. There are two other injured as well. Sambhaji was allegedly assaulted by Suresh with an iron rod. As a result of the injuries suffered, Vansing died. Others suffered grievous injuries.

5. Learned counsel for the applicant would submit that the informant is not an eye witness to the incident. In support of such claim, she has relied on the statement of wife of the deceased viz. Sunitabai. As per her statement, the informant, having seen the incident, had fled.

6. The postmortem report is also adverted to indicate that no injury had been suffered by the deceased at his stomach. According to learned

counsel, the applicant has been behind the bars for about fifteen months. The trial has not yet commenced. She, therefore, urged for grant of bail considering the applicant's role in the alleged offence.

7. Learned A.P.P. would, on the other hand, submit that it is a case of murder of one and assault on the life of two others. He relied on the injury certificates of the others to submit that they suffered grievous injuries at the hands of the applicant herein. Statement of Sunitabai has also been placed on record. According to him, there is eye witness account. The applicant, therefore, does not deserve grant of bail.

8. Considered the submissions advanced. The fatal injury has been attributed to co-accused – Yuvraj. The applicant herein is alleged to have pierced an iron rod in the stomach of the deceased. The postmortem report is silent to indicate the deceased to have suffered stomach injury. Vansing suffered grievous injuries at the hands of the applicant – Suresh. The fact is that the applicant is behind the bars for little over fifteen months. The charge-sheet has been filed. Trial has not yet commenced. The fatal injury has not been attributed to the applicant herein.

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

ORDER

(I) The bail application of applicant - Suresh Dohanya Pawara is allowed.

(II) The applicant - Suresh Dohanya Pawara be released on bail, in connection with Crime No. 251 of 2021 registered with Mhaswad Police Station, Dist. Nandurbar for the offences punishable under Sections 302, 307, 201, 504, 506, 120B 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) He shall not enter village Rampur Plot, Tq. Shahada, Dist. Nangurbar until conclusion of trial.

(IV) He shall not tamper with the prosecution evidence.

(R.G. AVACHAT, J.)

SSD