

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

BAIL APPLICATION NO. 1063 OF 2022

Manisha @ Kavita Chandrakant Waghmare ..APPLICANT

VERSUS

State of Maharashtra ..RESPONDENT

WITH

BAIL APPLICATION NO. 1064 OF 2022

Dashrath Nanasaheb Katarnavre ..APPLICANT

VERSUS

State of Maharashtra ..RESPONDENT

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Mr. R.K. Temkar, Advocate for applicants

Mr. A.V. Deshmukh, A.P.P. for respondent - State

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CORAM : R.G. AVACHAT, J.

DATE : 05th AUGUST, 2022

PER COURT :

1. Both these applications for bail under Section 439 of Code of Criminal Procedure are being decided by this common order since same are arising out of one and the same crime i.e. Crime No. 243 of 2022 registered with Rahata Police Station, Dist. Ahmednagar for the offences punishable under Sections 302, 363, 324, 143, 147, 148, 149, 504 and 506 of the Indian Penal Code and under Sections 4 and 25 of the Arms Act.

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

3. The F.I.R. has been lodged by Kisan Waghmare, father of the deceased - Yogesh, on 01st June, 2022. It has been averred in the F.I.R. that on 29th May, 2022 by 12.00 noon, the deceased – Yogesh alongwith his friends had been to Hotel Lucky, Shrirampur. He had a quarrel with one Ravi Katarnavare (co-accused) and his friends there.

4. The incident is dated 01st June, 2022 by 10.15 p.m. The informant was told by one Darshan Waghmare on cell phone that there was some quarrel between Yogesh and others at one Gharkul scheme. The informant, therefore, rushed there to find co-accused – Pintya and Ravi were armed with swords. Ravi threatened the informant of eliminating all his family members. The informant went up stairs to the house of Sanjay Nikale. He saw Yogesh was lying in the pool of blood. He had suffered a deep chest injury. It was also seen that he had suffered head injuries as well. The informant was told by his grandson – Tushar that at 10.00 p.m. on the day of the alleged incident, co-accused Lalit and Rahul asked Yogesh to join them for watching a movie. Both of them took him to the house of Sanjay Nikale. At the house of Sanjay Nikale there were eighteen persons (co-accused named in

the F.I.R.) present. He further told the informant that co-accused – Ravi, Viren and Yogesh were armed with sword. Ravi assaulted the deceased on his chest. Sanjay and Lalit gave sickle blows on the head of deceased – Yogesh.

5. What can be gathered from the F.I.R. is that no overt act has been attributed to the present applicants – Manisha and Dashrath. They were allegedly present at the scene of offence.

6. Learned A.P.P. would submit that their criminal liability for the offence punishable under Section 302 of the I.P.C. could be invoked on the basis of Section 149 of the I.P.C. Learned A.P.P., therefore, urged for rejection of the application.

7. Considered the submissions advanced. Learned A.P.P. may be correct in his submission, but the fact is that eye witnesses did not attribute any overt act to the present applicants. Applicant – Manisha is a female resident of some other village. Applicant – Dashrath is seventy four years of age. Considering the age of applicant - Dashrath and another applicant – Manisha being a female and they have not been attributed with any overt act in the alleged offence, this Court inclined to grant them bail.

8. In view of above, the applications deserve to be allowed. Hence I pass the following order :-

ORDER

(I) Both the bail applications are allowed.

(II) The applicants be released, in connection with Crime No. Crime No. 243 of 2022 registered with Rahata Police Station, Dist. Ahmednagar for the offences punishable under Sections 302, 363, 324, 143, 147, 148, 149, 504 and 506 of the Indian Penal Code and under Sections 4 and 25 of the Arms Act, on executing P.R. Bond in the sum of Rs.15,000/- (Rupees Fifteen Thousand) each with one surety in the like amount.

(III) The applicants shall mark their appearance at the concerned police station on every Sunday between 12.00 noon to 01.00 p.m. till conclusion of trial.

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

(R.G. AVACHAT, J.)

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