

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

BAIL APPLICATION NO.1321 OF 2022

Shoeb @ Shoheb Subhani
s/o. Shaikh Shafiq Subhani
(incorrectly stated as Sulani),
Age : 22 years, Occ. Labourer,
R/o. Pathan Mohalla, Ambad,
Tq. Ambad, Dist. Jalna.

..Applicant

Vs.

The State of Maharashtra,
Through the Officer In-charge,
Ambad Police Station,
Dist. Jalna

..Respondent

Mr.Rajendrraa Deshmukh, Senior Advocate i/b. Mr.D.R.Deshmukh and
Mr.V.A.Chavan, Advocate for applicant

Mr.S.P.Sonpavale, APP for respondent

**CORAM : R.G. AVACHAT, J.
DATE : OCTOBER 03, 2022**

ORDER :-

This is an application under Section 439 of the Code of Criminal Procedure. The applicant has been arrested in connection with Crime No.0153 of 2022 registered with Ambad Police Station, Dist.Jalna, for the offences punishable under Sections 302, 341, 143, 147, 148, 504 and 506 read with Section 149 of Indian Penal Code.

2. Heard learned counsel appearing for the parties.
3. The First Information Report (FIR) has been lodged by the paternal uncle of deceased – Rameshwar on 13.03.2022. It has been alleged in the FIR that on 12.03.2022, the deceased – Rameshwar had been to a well for swimming. That time, he had a quarrel with some Muslim boys since those boys had also been there for swimming. Taking thread of the quarrel, the applicant and the co-accused, fifteen in number, intercepted the deceased, while he was on way to the field through Pathan Mohalla, Holkar Nagar, Ambad. The applicant and all the co-accused persons assaulted him. The applicant is specifically attributed with an assault by iron rod. The applicant, allegedly, assaulted on the head of the deceased with iron rod. The deceased suffered bleeding injury thereby. It has also been averred in the FIR that the co-accused also beat up the deceased on his head and the person as well with sticks.
4. Learned Senior Counsel appearing for the applicant would submit that the applicant is 22 years of age. All the co-accused have been granted bail. There is delay of about 24 hours in lodging of the FIR. The co-accused are also alleged to have

assaulted with stick on the head of the deceased. The deceased suffered two head injuries and which one was fatal, is not known. Learned Senior Counsel, therefore, urged for grant of bail to the applicant.

5. Learned APP would, on the other hand, submit that the applicant wielded iron rod and others used wooden sticks. Because of the assault made by the applicant, the deceased suffered bleeding injury. Learned APP meant to say that the fatal injury may be attributed to the applicant herein. He also submits that the C.A. report is on record indicating that on the tip of the iron rod, blood of Group "A" was noticed. The deceased had blood of Group "A". He, therefore, urged for rejection of the application.

6. Considered submissions advanced. Perused the FIR and the police papers.

7. The applicant along with fourteen others have been named in the FIR. There was quarrel between the deceased on one hand and the applicant and the co-accused on the other, over swimming in the well. While the deceased was on his way to the field, the applicant and the co-accused, allegedly, intercepted him

and mounted attack. The post mortem report indicates that the deceased died of head injuries. The deceased suffered two head injuries. One head injury is attributed to present applicant. The opinion given by the Medical Officer also suggests that the fatal head injury may also be attributable to the assault made by the stick. The co-accused, who assaulted the deceased with stick, have all been granted bail. Learned Senior Counsel has, therefore, reason to urge for grant of bail on the ground of parity.

8. In view of the fact that the co-accused, who assaulted the deceased on head with stick, have been granted bail and the applicant herein being 22 years of age, he deserves to be granted bail on the ground of parity as well. On completion of investigation, charge sheet has been filed. It will take time for commencement and conclusion of the trial.

9. Hence, the following order:-

(i) The application is allowed.

(ii) The applicant be released on bail in connection with Crime No.0153 of 2022 registered with Ambad Police Station, Dist.Jalna, for the offences punishable under Sections 302, 341,

143, 147, 148, 504 and 506 read with Section 149 of 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.

(iv) Until conclusion of the trial, the applicant shall not enter Ambad Town, except for attending the Sessions Court.

[R.G. AVACHAT, J.]

KBP