

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

BAIL APPLICATION NO. 1328 OF 2022

Kailash Raju Chavan	... Applicant
Versus	
The State of Maharashtra	... Respondent
....	
Mr. C. C. Deshpande, Advocate for applicant	
Mr. N. T. Bhagat, APP for respondent - State	
....	

CORAM : R. G. AVACHAT, J.

DATED : 19th SEPTEMBER, 2022

PER COURT :-

1. 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.0403/2021, registered at Bidkin Police Station, District Aurangabad, for the offences punishable under Sections 302, 504, 506 read with 34 of the Indian Penal Code.

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

The applicant is alleged to have committed murder of his own father. The FIR has been lodged by daughter-in-law (wife

of another son) of the deceased on 19.11.2021. It has been averred in the FIR that on 16.11.2021, by 9.00 p.m., the applicant came home. The informant was preparing bed. The applicant picked up quarrel with the informant's husband and his father as well. The quarrel took place between him on one hand and his father on the other. The applicant is alleged to have assaulted on the stomach of the deceased with the handle of axe. The deceased was rushed to the hospital. He breathed his last after two days.

3. The learned Advocate for the applicant would submit that, on investigation, the charge-sheet has been filed. Had the applicant intended to kill his father, he would have assaulted the deceased with an axe blade. Use of axe handle would indicate that he did not have intention to kill his father. The applicant's wife had also lodged the FIR against the deceased for having beaten up the applicant. The said FIR precedes the present one.

4. This factual matrix is not disputed by the learned APP. He would, however, submit that the wife of the applicant had given kick on the private part of the deceased. The applicant assaulted with an handle of an axe. The cause of death is the injury resulted with a

blow given by the applicant, and as such, the applicant has committed murder of his father. He, therefore, urged for rejection of the application.

5. Without reiterating the averments made herein above, suffice it to say that it was a quarrel between the applicant and his father. The applicant's wife had filed FIR before the present one was filed. The applicant assaulted his father with the handle of an axe. The learned Advocate for the applicant was therefore reason to contend that the applicant did not have intention to commit murder of his father.

6. The deceased died of septicemic shock due to intestinal perforation peritonitis following blunt trauma to abdomen. The deceased died two days after the incident. The applicant is behind the bars for about ten months. It will take time for commencement and conclusion of trial. The application is therefore allowed.

ORDER

(i) The Bail Application is allowed.

(ii) The applicant be released on bail in connection with Crime No.0403/2021, registered at Bidkin Police Station, District Aurangabad, for the offences

punishable under Sections 302, 504, 506 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 enter Paithan taluka, until conclusion of trial.

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

[R. G. AVACHAT, J.]

SMS