

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

BAIL APPLICATION NO.1500 OF 2022

Aditya s/o. Ashok Ghadage

..Applicant

Vs.

The State of Maharashtra

..Respondent

Mr.E.D.Gajile, Advocate for applicant
Mr.A.V.Deshmukh, APP for respondent

**CORAM : R.G. AVACHAT, J.
DATE : OCTOBER 07, 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.0767 of 2021 registered with M.I.D.C. Latur Police Station, Dist.Latur, for the offences punishable under Sections 302, 504 and 506 of Indian Penal Code.

2. Heard learned counsel appearing for the parties.

3. The First Information Report (FIR) has been lodged by one Gunwant Pawar on 25.11.2021. It is his case that Kishor Yadav, (deceased) was husband of his sister. The deceased was serving as an attendant at a petroleum gas pump of Indian Auto Gas Company. He

was on duty by 10.30 p.m. on 21.11.2021. The applicant is a professional auto-rickshaw driver. He went to the pump to fill in his auto-rickshaw petroleum gas. That time, he did not have money to pay. After having received the gas, he sought for time to pay. The deceased, therefore, took him to the Manager of the gas pump. The applicant misbehaved with the Manager and the deceased as well. He then went away and came back after a while. He then beat up the deceased with fisticuffs. The deceased experienced stomach pains. His family members admitted him first to Civil Hospital, Latur. As if felt better, on 23.11.2021 at 6.00 a.m., he took discharge from the hospital. On the same day, at 3.00 p.m., he again experienced stomach pains and vomiting blood. He was, therefore, again admitted to Sahyadri Hospital, Latur. He breathed his last there. The applicant is alleged to be responsible for the death of the deceased. On investigation, charge sheet has been filed.

4. Learned counsel for the applicant would submit that the applicant is in jail for over ten months. On investigation, charge sheet has been filed. Even if, we take the case of the prosecution as it is, the applicant cannot be observed to have had intended to commit murder of the deceased. On receipt of histopathological

report, opinion of the Doctor, is awaited. He, therefore, urged for allowing the application.

5. Learned APP would, on the other hand, submit that an innocent person had to lose his life due to the applicant's temperament. The trial Court may be requested to expedite hearing of the case. He would urge for rejection of the application.

6. The applicant is in jail for little over ten months. He is alleged to have given 2-3 punches in the stomach of the deceased. The deceased was admitted to hospital. He was even discharged therefrom. On having experienced stomach pain again, he was admitted to the hospital. Ultimately, he died on 23.11.2021 in Sahyadri Hospital. The probable cause of death is stated to be "perforation peritonitis". On receipt of the histopathological report, the opinion of the Doctor is still awaited.

7. From the nature of the offence, this Court, *prima facie*, finds the applicant to have had not intended to commit murder of the deceased. This Court, is, therefore, inclined to grant the applicant bail.

8. The observations made herein above are *prima facie* in nature for the purpose of allowing this application for bail. The trial Court shall not be influenced thereby.

9. In view of the above, the Court is inclined to grant the applicant bail. Hence, the following order:-

(i) The application is allowed.

(ii) The applicant be released in connection with Crime No.0767 of 2021 registered with M.I.D.C. Latur Police Station, Dist.Latur, for the offences punishable under Sections 302, 504 and 506 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.

[R.G. AVACHAT, J.]

KBP