

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

920 BAIL APPLICATION NO.1344 OF 2021

**CHANDRAKANT @ BALYA SHAMRAO TARU
VERSUS
THE STATE OF MAHARASHTRA**

...
Advocate for Applicants : Mr. V.C. Patil h/f. Patnurkar V.d.
APP for Respondents/State : Mr. S.B. Narwade
...

**CORAM : M.G. SEWLIKAR, J.
DATE : 4th January, 2022**

PC.:-

Heard.

2. It is alleged in the FIR that one Gangasagar Balaji Sontakke narrated the incident to the informant to the effect that quarrel started between the applicant and Gangasagar Balaji Sontakke. Applicant started beating Gangasagar Balaji Sontakke with kicks and fist blows. At that time deceased-Shubham came to the rescue of Gangasagar Balaji Sontakke. Thereupon, applicant and one Nagraj Kolte started beating the deceased-Shubham. Applicant inflicted a blow on the chest of the deceased by means of a knife attached to a key chain on account of which blood started oozing from the chest of the deceased. The deceased was shifted to Government Hospital, Vazirabad, Nanded. He was advised to be taken to Vishnupuri Hospital. In

Vishnupuri Hospital the deceased was declared dead on arrival. On these allegations FIR came to be lodged by the uncle of the informant on the basis of which offence under Section 302, 323 read with Section 34 of the I.P.C. came to be registered.

3. Learned counsel Shri Patil h/f. Shri Patnurkar submits that the deceased was first shifted to Government Hospital, Vazirabad and from there he was shifted to Vishnupuri Hospital. He submits that the deceased did not get proper treatment. If he had been given proper treatment his death could have been averted. This submission cannot be accepted. Explanation 2 to Section 299 states that where death is caused by bodily injury, the person who causes such bodily injury shall be deemed to have caused the death, although by resorting to proper remedies and skillful treatment the death might have been prevented. This clearly shows that it is culpable homicide. The arguments that if proper remedy has been resorted to, the life of the deceased could have been saved is not available to him. Learned counsel Shri Patil submits that the trial be expedited.

4. Having regard to the observations made above, I am not inclined to grant any relief to the applicant. Hence the application is dismissed.

5. These observations are made only for the disposal of this

application and the learned trial Court shall not get influenced by these observations and can come to its independent conclusion during trial.

[M.G. SEWLIKAR, J.]