

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

934 BAIL APPLICATION NO.1379 OF 2021

**VITTHAL DHANRAJ THOMBARE
VERSUS
THE STATE OF MAHARASHTRA**

Shri. Shrikant G. Kawade, Advocate for the applicant
Shri. S. N. Narwade, APP for the respondent/State

**CORAM : M. G. SEWLIKAR, J.
DATED : 5th January, 2022**

PER COURT :-

1. This is an application under Section 439 of the Code of Criminal Procedure for releasing the applicant on bail in connection with Crime No. 0001 of 2021 registered with Bhoom Police Station, Dist. Osmanabad for the offence punishable under Section 302 read with Section 34 of the Indian Penal Code.

2. The informant is the younger brother of the deceased Dhanraj. It is the case of the prosecution that applicant and accused Pravin are the sons of the deceased Dhanraj. The name of their mother is Sunita Dhanraj Thombre. Deceased Dhanraj used to beat the mother of the

applicant without any rhyme or reason. On the day of the incident deceased Dhanraj had assaulted the mother of the applicant. Applicant tried to control the deceased but he continued beating his mother. Therefore, applicant and accused Pravin, at the instigation of their mother, assaulted the deceased. Accused Pravin delivered a blow of wooden rod on the head of the deceased because of which deceased fell down. Accused Pravin projected before the informant that the deceased had fallen from the motorcycle and sustained injuries. On seeing the dead body of the deceased, informant got suspicious and informed the Police Patil about the incident. When Police Patil made inquiries, applicant and accused Pravin gave extra judicial confession about their role in the commission of the crime. Thereafter FIR was lodged.

3. I have heard Shri. Kawade, learned counsel for the applicant and Shri. Narwade, learned APP for the respondent/State.

4. Shri. Kawade, learned counsel for the applicant

submits that charge-sheet is filed. The entire case is based on extra judicial confession. Entire allegations are against the accused Pravin. He delivered a fatal blow on the head of the deceased. Applicant is accused of beating the deceased by means of a wooden rod.

5. Learned APP Shri. Narwade submits that the deceased had six injuries. However, fatal injury was given by the accused Pravin.

6. According to prosecution the incident took place on account of instigation given by the mother of the applicant and accused Pravin. She has been released on bail. Fatal blow was given by accused Pravin. Cause of death is death due to head injury. Applicant has not given the fatal blow. In this view of the matter, having considered the role of the applicant, I am inclined to release the applicant on bail. Hence the order.

ORDER

1. Application is allowed.

2. Applicant be released on bail on his furnishing PR bond of Rs. 30,000/- (Rupees Thirty Thousand only) with one solvent surety in the like amount in connection with CR No. 0001 of 2021 under Section 302 read with Section 34 of the Indian Penal Code registered with Bhoom Police Station, Dist. Osmanabad, on condition that he shall not tamper the prosecution evidence and shall not pressurize the witnesses.

3. Application is disposed of.

4. It is clarified that the observations made in the above order are restricted to the decision of this application only and the trial Court shall not get influenced by the same and can come to its independent conclusion during trial.

[M. G. SEWLIKAR, J.]

ssp