

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

21 BAIL APPLICATION NO.1391 OF 2021

**SAYYAD JAFAR SAYYAD AKHTAR
VERSUS
THE STATE OF MAHARASHTRA**

...
Advocate for Applicant : Mr. Mundhe Kartik D.
APP for Respondents/State : Mr. S.B. Narwade
...

**CORAM : M.G. SEWLIKAR, J.
DATE : 10th January, 2022**

PC.:-

Heard.

2. Prosecution case is that the deceased had paid some amount to the applicant and the deceased was pestering the applicant in presence of all for return of the amount. This did not go down well with the applicant. On the day of the incident i.e. on 9th July, 2020 at 8.00 pm the informant who is the brother of the deceased saw the applicant and Mujahid Hashmi @ Baaghi, Syed Zafar Syed Isak @ Ladya and one Irfan had altercation with the deceased Zameer. The deceased-Zameer was the cousin of the informant. Accused Mujahid Hashmi @ Baaghi held the hands of the deceased, applicant/accused Sayyad Jafar Sayyad Akhtar delivered a blow of iron rod on the head of the deceased, accused Syed Zafar @ Ladya delivered a blow of iron rod on the

chest of the deceased. The deceased was shifted to the hospital where he was declared dead on arrival. On these allegations FIR came to be lodged by the brother of the deceased and offence under Section 302, 201 read with Section 34 of the I.P.C. came to be registered against the applicant.

3. Learned counsel Shri Munde for the applicant submits that the applicant as per FIR is alleged to have delivered a blow of iron rod, whereas witnesses have attributed act of stabbing by the applicant to the deceased. He submits that MLC shows that history of assault by someone. He submitted that this shows that a concocted case has been filed against the applicant.

4. Learned APP Shri Narwade submits that there are eye witnesses who have stated that the deceased was assaulted by the applicant by means of a knife. He submits that considering the role played by the applicant he is not entitled to be released on bail.

5. MLC is placed on record. History was recorded by the Medical Officer. History was recorded as assault by someone. Therefore, at the first instance, name of the applicant or any other accused does not figure. As per the contents of the FIR, applicant is alleged to have delivered a blow of iron rod to the deceased. However, *post mortem* report shows that the deceased had injuries by knife. Witnesses also state that applicant was holding knife

and he had assaulted the deceased by means of knife. Considering this contradictory evidence, I am inclined to release the applicant on bail. Applicant has no criminal antecedents. Nothing is brought on record to show that applicant will not be available for trial. No extra ordinary circumstance is brought on record to deny bail to the applicant. Applicant is behind the bars since 10.07.2020. Having regard to this, I am inclined to release the applicant on bail. Hence the following order is passed:

ORDER

- I) Application is allowed.
- II) Applicant be released on PR bond of Rs.40,000/- with one solvent surety in the like amount, in connection with Crime No.415 of 2020 under Section 302, 201 read with Section 34 of the I.P.C. with Nanalpeth Police Station, District Parbhani on condition that he shall not pressurise the witnesses and shall not tamper the prosecution evidence.
- III) 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.]