

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO.1497 OF 2021

Rushikesh s/o Vilas Munde

Applicant

Versus

The State of Maharashtra

Respondent

Mr. S.S. Thombre, Advocate for the applicant.

Mr. V.S. Badakh, APP for respondent/State.

CORAM : M.G. Sewlikar, J.

DATE : 12th 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. 437/2020 registered with Ambajogai Rural Police Station, Tq. Ambajogai, Dist. Beed for the offence punishable under Sections 302, 506 read with Section 34 of the Indian Penal Code.

2. Prosecution case in brief is that deceased Vilas Munde was a drunkard. On 14th December, 2020, at 9.30 pm, he came home drunk and started vomiting. Accused No. 1, the son of the deceased, got annoyed because of the drinking habit of the deceased.

He picked up an iron rod and started beating deceased with it. At that very moment, his maternal uncle Bhagwat Hange came there and he also started beating deceased with that iron rod. All the family members left the deceased at that place only. In the morning, informant, the daughter of the deceased, offered him tea but deceased declined. At 2.00 pm, the condition of deceased was critical. Therefore, she called her brother Vikas Munde from Nagapur. On arrival of Vikas, the deceased was shifted to Government Hospital at Ambajogai. At 3.55 pm, deceased was declared dead by the doctors. Thereafter, First Information Report came to be lodged.

3. I have heard Shri Thombre, learned counsel for the applicant and Shri Badakh, learned APP for the State.

4. Learned counsel Shri Thombre submits that the deceased was taken to the hospital as his abdomen was bloated. He submits that nobody had raised any grievance about the deceased being beaten by the applicant and accused Bhagwat Hange.

5. Learned APP submits that the deceased had 22 injuries and there are statements of eye witnesses giving detailed account of the incident. On the basis of First Information Report, offence came to be registered. Informant is the eye witness to the incident. Therefore, applicant may not be released on bail.

6. Sequence of evidence shows that on 5th December, 2020, in the morning, informant offered tea to the deceased. Deceased refused to have tea. At 2.00 pm, condition of the deceased became critical on account of which, brother of the informant by the name of Vikas Munde was called. It appears that on arrival of Vikas Munde, he did not notice any injury on the person of the deceased. It is not in dispute that Vikas Munde was absent at the time of the incident. It is unlikely that if the deceased had really been beaten by the applicant and accused Bhagwat Hange, informant and other family members would not have divulged the real incident to him. Initially, Vikas Munde lodged a report that abdomen of the deceased was bloated and he was not in a position to urinate. Charge-sheet is filed. Therefore, detention of applicant behind the bars is not warranted. Accused Bhagwan Hange has been released on bail. Role of the applicant is not different from the role of accused Bhagwan Hange.

In view of this and on the ground of parity also, I am inclined to release the applicant. Hence the following order :

ORDER

- i) Application is allowed.
- ii) Applicant be released on PR Bond of Rs. 50,000/- (Rs. Fifty Thousand) with one solvent surety in the like amount in connection with Crime No. 437/2020 registered with Ambajogai Rural Police Station, Tq. Ambajogai, Dist. Beed, for the offence punishable under Sections 302, 506 read with Section 34 of the Indian Penal Code.
- iii) Application is disposed of.
- iv) 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)
Judge