

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

BAIL APPLICATION NO.1862 OF 2022

1. Ramesh Dattu Jadhav
2. Madhukar Dattu Jadhav ...Applicants

Versus

The State of Maharashtra ...Respondent

...
Advocate for Applicants : Mr. Bhide Vinod Y.
APP for Respondent/State : Mr. A.A. Jagatkar

...

CORAM : S.G. MEHARE, J.

DATED : 09th DECEMBER, 2022

PER COURT:-

1. Heard learned counsel for the applicants and learned APP for the State at length.

2. The applicants have been arraigned as an accused for the offence of murder of one Yogesh. The applicants and deceased were residents of village Pabhulwandi; however, the incident happened in village Devgaon. It has been alleged against the applicants that they assaulted the deceased in the field of one Ramji Bhangare; therefore, he died due to multiple injuries and respiratory failure.

3. Learned counsel for the applicants would argue that there were no injuries on the person of the deceased. The report has been lodged on the hearsay evidence. The eyewitnesses are planted. The evidence of so-called eye witnesses does not inspire the

confidence. The recovery panchnama under Section 27 of the Indian Evidence Act is not voluntary as it was written on the questions to the applicant. The prosecution has no case of intention to kill the deceased. The applicants are the head of their families. There are no antecedents to their discredit. The investigation is completed; hence, they may be released on bail.

4. Learned APP has argued that the incident happened in two episodes. A day before the incident, the co-accused were searching for the deceased in his village. One of the co-accused was roaming in the village with a sword. On the day of incident also, their sons were searching the deceased. The son of the one of the applicant was holding a sword. Before the incident, the crime was registered on the report of the applicants' family against the deceased. There are eye witnesses to the incident. The applicants were aggressive. The weapons allegedly used in the crime have been recovered at the instance of the applicants. Before the incident, the accused threatened the deceased to kill and they put their intention into action on the next day. The medical officer's opinion supports the prosecution case. The offence is serious. That apart, the applicants and deceased were the residents of the same village. The applicants may tamper with the prosecution evidence. Hence, they may not be granted bail.

5. Perused the papers. The first eyewitness in whose field the incident happened barely stated that both the applicants were beating the deceased with kicks and blows and sticks. The post-mortem report shows barely the abrasion and contusion. If the injuries on the person of the deceased are considered, it raises a serious doubt whether those injuries were sufficient to cause the death in the ordinary course of nature. The statement of eyewitnesses are inconsistent on material facts. The recovery of the weapons like the wooden piece and stick at the instance of the applicants, is a matter of record. Considering the material in toto, there appears substance in the contention of the applicants that there may not be intention to kill. The post-mortem report supports his arguments. There were no antecedents to the discredit of the applicants. The investigation is completed. The material witnesses are from another village. In view of that matter, the Court is of the view that this is a fit case for bail. Hence, the following order :

ORDER

- (i) Bail Application is allowed.
- (ii) The applicants, Ramesh Dattu Jadhav and Madhukar Dattu Jadhav, be released on bail on executing P.B. and S.B. of Rs.50,000/- (Rupees fifty thousand) each with one solvent surety in the like amount in connection with Crime No.85 of 2022, registered at Rajur Police Station, District Ahmednagar for the offence punishable under

(4)

Sections 302, 341 r/w 34 of the Indian Penal Code and under Section 4/25 of the Indian Arms Act, on the condition that they shall not tamper with the prosecution evidence and shall co-operate with the trial.

(S.G. MEHARE, J.)

Mujaheed//