

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO.1505 OF 2021

Harish Sayappa Mashale

Applicant

Versus

The State of Maharashtra

Respondent

Mrs. C.S. Deshmukh, Advocate holding for Mr. P.S. Pawar, Advocate
for the applicant.

Mr. A.V. Deshmukh, APP for respondent/State.

CORAM : M.G. Sewlikar, J.

DATE : 12th JANUARY, 2022.

PER COURT :

1. Heard.

2. One Dhananjay Gawali lodged First Information Report against the applicant and one Ram Maruti Yedge alleging therein that accused Ram and deceased Laxman Maruti Yedge are the real brothers. It appears that there was some dispute between accused Ram Yedge and Laxman Yedge on account of landed property.

3. It is further alleged in the First Information Report that on 21st October, 2020, at 1.00 pm, accused Ram Yedge, his brother-in-law and applicant came to the field on scooty and called deceased Laxman Yedge on the road. Accused Ram Yedge abused Laxman on the count as to why he had abused their mother and wife of Ram Yedge. Accused Ram Yedge fell deceased Laxman Yedge down and started beating deceased Laxman. Applicant is alleged to have held both the hands of deceased Laxman. Accused Ram Yedge picked up a stone and started hitting deceased Laxman Yedge on his face, head and eyes. When informant tried to separate them, accused Ram Yedge threatened him that he would also not be spared. Thereupon, informant went away. On these allegations, First Information Report came to be lodged on 21st October, 2020 on the basis of which offences under Sections 302, 506, 504 read with Section 34 of the Indian Penal Code came to be registered against the applicant.

4. Smt. Deshmukh, learned counsel for the applicant submits that the role of the applicant is only beating the deceased with kicks and fists blows. She submits that except informant, there is no other eye witness to the incident. Prosecution claims that Balaji Patil and Satish Yadav are the eye witnesses. However, First

Information Report shows that they came to the spot after the incident was over. She submits that considering the role of the applicant, he be released on bail.

5. Learned APP Shri Deshmukh submits that there are eye witnesses by the name of Balaji Patil and Satish Yadav. Both of them have mentioned presence of the applicant as an unknown person. Role of the applicant is as serious as that of accused Ram Yedge. Therefore, applicant may not be released on bail.

6. Charge-sheet is filed. In terms of Post Mortem report, cause of death is "haemorrhagic shock due to multiple CLW over head by hard and blunt object like stone." From the First Information Report and the statements of witnesses, it is clear that accused Ram had hit the deceased by means of a stone on his head and face. In terms of Post Mortem report, death is caused due to multiple injuries caused by hard and blunt object like stone. None of the witnesses nor the informant have stated that applicant had used stone during the commission of the offence. The Honourable Supreme Court in the case of Prashant Singh Rajput vs. State of Madhyay Pradesh, **AIR 2021 Supreme Court 5004** has held that while

deciding application for bail, role of the accused also needs to be considered. Having regard to the role of the applicant, I am inclined to release the applicant on bail. Hence the following order :-

ORDER

- i) Application is allowed.
- ii) Applicant be released on PR Bond of Rs.40,000/- (Rs. Forty Thousand) with one solvent surety in the like amount in connection with Crime No. 0306/2020 registered with Naldurg Police Station, Dist. Osmanabad, for the offences punishable under Sections 302, 506, 504 read with Section 34 of the Indian Penal Code, on condition that he shall not tamper prosecution evidence.
- 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