

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

17 BAIL APPLICATION NO.1674 OF 2021

Sunil S/o Punjaji Chavan
Age: 36 years, Occu.: Labourer,
R/o.Pardhiwada, Hingoli,
Taluka & District – Hingoli
(At present in Jail)

..Petitioner/Applicant
(Orig. Accused No.2)

VERSUS

The State of Maharashtra,
Through Police Station Officer,
Police Station Hingoli (Town),
Taluka & District – Hingoli.

..Respondent

...
Advocate for Applicant : Shri Swapnil S. Rath
APP for Respondent : Shri V.S.Badakh

...
CORAM : M.G.SEWLIKAR, J.

DATE: 8th February, 2022

PER COURT :-

1. Heard.

2. Informant is the wife of Sunil Chavan (since deceased). Sunil Chavan is hereinafter referred to as deceased Chavan. On the date of incident i.e. on 15th October, 2020 at 07:30 p.m., there were celebrations on account of birthday of son of Kachru Baban Chavan. All including accused Ajesh @ Ajay Bansi Chavan were dancing. He was dancing with a sword in his hand. At

about 08:00 to 08:30 p.m. accused Sachin Jilani Pawar took deceased Chavan with him on the pretext of giving Tobacco/Gutkha. Deceased Chavan accompanied accused Sachin Pawar. Applicant was also with them. Informant was looking at the applicant. All of a sudden accused Ajesh @ Ajay Chavan stabbed deceased Chavan in the chest by means of a sword. Accused Sachin Pawar held both the hands of deceased Chavan from behind. Accused Ritik Bharat Chavan assaulted on the back of deceased Chavan by means of a knife. Accused Arjun Baban Kale assaulted on the hand of deceased Chavan by means of a Gupti. Applicant and accused Rahul Kale assaulted deceased Chavan by means of stone and iron rod respectively. Deceased Chavan was shifted to the hospital where he was declared dead on arrival. Accordingly, Crime No.0471 of 2020 came to be registered with Hingoli City Police Station, Dist.Hingoli, under Sections 302, 120-B, 143, 147, 148, 149, 341, 201 of the Indian Penal Code, under Section 4/25 of the Arms Act and under Section 135 of the Maharashtra Police Act.

3. Charge-sheet is filed. On perusal of the post mortem report, it is seen that deceased Chavan had incised stab injuries and incised wound and abrasion. Role of the applicant as discerned from the FIR and the statement of the witnesses is that

he had assaulted deceased Chavan by means of a stone. Charge-sheet also shows that opinion of Medical Officer was solicited as to whether injury No.6 can be caused by iron rod. Medical Officer has opined that this can be caused by iron rod. Applicant is alleged to have inflicted injury by means of a stone. On perusal of the charge-sheet, it appears that the role of the applicant is of assaulting deceased Chavan by means of a stone. Fatal blow is given by other accused and not by the applicant. While deciding application for bail, role of the applicant needs to be considered as held by the Hon'ble Supreme Court in the case of ***Prashant Singh Rajput Vs. State of Madhya Pradesh [AIR 2021 Supreme Court 5004]***.

4. Learned APP for the respondent submits that applicant has criminal antecedents. However, the offences registered against the applicant are under Section 188 of the Indian Penal Code and under Section 65 of the Bombay Prohibition Act. No offence against human body is registered against the applicant. There is no likelihood of applicant fleeing from justice. Having regard to this and that charge-sheet is filed, I am inclined to release the applicant on bail. Hence, the order.

ORDER

- i) Bail Application is allowed.
- ii) Applicant be released on P.R.Bond of Rs.30,000/- (Rs.Thirty thousand only) with one solvent surety in the like amount, in connection with Crime No.0471 of 2020, registered with Hingoli City Police Station, Dist.Hingoli, under Sections 302, 120-B, 143, 147, 148, 149, 341, 201 of the Indian Penal Code, under Section 4/25 of the Arms Act and under Section 135 of the Maharashtra Police Act and on condition that he shall not tamper the prosecution evidence.
- iii) Bail 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