

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

925 BAIL APPLICATION NO.1680 OF 2021

1. Vikas s/o Prakash Ghode
Age: 24 years, Occu.: Agri.,
R/o. Niwali (bk), Taluka Jintur,
District Parbhani.
 2. Nagorao s/o. Nivrutti Ghode
Age: 56 years, Occu.: Agri.,
R/o. Niwali (bk.), Taluka Jintur,
District Parbhani.
 3. Yashwant s/o. Vitthal Ghode
Age: 55 years, Occu.: Agri.,
R/o. Niwali (bk), Taluka Jintur,
District Parbhani.
 4. Kondiba s/o. Tukaram Ghode
Age: 38 years, Occu.: Agri.,
R/o.Niwali (bk), Taluka Jintur,
District Parbhani.
- ..Applicants

VERSUS

- . The State of Maharashtra
(Through Bori Police Station
District Parbhani).
- ..Respondent

...
Advocate for Applicants : Shri Nilesh S. Ghanekar
APP for Respondent : Shri S.B.Narwade
...

CORAM : M.G.SEWLIKAR, J.

DATE: 18th January, 2022

PER COURT :-

1. This is an application under Section 439 of the Code of Criminal Procedure for enlargement on bail in connection with

Crime No.0061 of 2019, registered with Bori Police Station, District Parbhani, under Sections 302, 307, 143, 147, 148, 149,, 504, 506 read with Section 34 of the Indian Penal Code.

2. Informant is the wife of the deceased Bhaurao Khandare. It is alleged in the FIR that on 31st May 2021 at 08:00 p.m., the deceased was having a chat in the house with his cousin by the name of Sunil Bhagoji Khandare. At that time, all the applicants alongwith accused Pankaj Nagorao Ghode came there. All of them were armed with stick, axe, iron rod and assaulted the deceased on the ground that deceased had the habit of abusing under influence of liquor. Accused Pankaj delivered a blow of axe on the head of the deceased. All the applicants beat the deceased by means of iron rod on the back and head of the deceased. Deceased was dragged by the applicant No.3 Yashwant Vitthal Ghode, accused Pradeep Sahebrao Ghode, accused Anant Yashwant Ghode and accused Atmaram Nivrutti Ghode. The deceased was beaten by them by means of sticks on head and back.

3. Heard Shri N.S.Ghanekar, learned counsel for the applicants and Shri S.B.Narwade, learned APP for the respondent.

4. Charge-sheet is filed.

5. On perusal of the FIR and the charge-sheet, it is revealed that the deceased was assaulted by accused Pankaj Nagorao Ghode . He has not filed application for bail before this Court. As per the narration in the FIR, applicants assaulted the deceased by means of iron rod, stick on the head and back of the deceased. On perusal of the post mortem report, it is revealed that the deceased had one injury on head. There is one injury on arm. One scratch abrasion present over flexor aspect of right forearm and multiple abrasions present over dorsum of both feet at places of varying sizes. Cause of death is head injury. Having regard to this, it is clear that the fatal blow was given by the accused Pankaj Nagorao Ghode.

6. Learned APP for the respondent submits that there are internal injuries which correspond to external head injury. However, there is only one injury on head and according to the FIR, it is caused by accused Pankaj Nagorao Ghode. He further submits that the applicants had threatened the witnesses and therefore, NC has been registered against them.

7. Role of the accused is one of the considerations for

releasing the accused on bail 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]***. Considering the role of the applicants, I am inclined to release the applicants on bail. Hence, the following order is passed;

ORDER

- i) Bail Application is allowed.
- ii) Each of the Applicants be released on P.R.Bond of Rs.50,000/- (Rs.Fifty Thousand only) with one solvent surety in the like amount, in connection with Crime No.0061 of 2019, registered with Bori Police Station, District Parbhani, under Sections 302, 307, 143, 147, 148, 149, 504, 506 read with Section 34 of the Indian Penal Code, and on condition that they shall not enter village Niwali (Bk.) till the conclusion of the trial and shall not pressurize the witnesses and 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