

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO.1710 OF 2021

Bhima Chintaman Bande

Applicant

Versus

The State of Maharashtra

Respondent

Mr. V.Y. Bhide, Advocate for the applicant.

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

CORAM : M.G. Sewlikar, J.

DATE : 24th JANUARY, 2022.

PER COURT :

1. Heard.

2. Informant is the father of deceased Valu Bhagwanta Bande. He has two more sons by the name of Balu and Kalu. The narration in the First Information Report shows that on 5th May, 2021, at 7.00 pm, son of the informant by the name of Kalu came home and told the informant that he (Kalu) and accused Bhima (applicant) had quarrel at the time of lunch. On 6th May, 2021, at 7.00 pm, when the informant was sitting in his courtyard along with his three sons, applicant, accused Harishchandra Bajirao Bande and

accused Swapnil Bhima Bande came there. Applicant and accused Harishchandra were armed with iron pipe and accused Swapnil was armed with a stick. They started assaulting the informant and his sons. Applicant and accused Harishchandra dealt a blow of iron pipe on the head of deceased Valu. Applicant and accused Harishchandra dealt a blow of iron rod on the palm of injured Kalu. Accused Swapnil also delivered a blow of stick on the head of Valu. The deceased was shifted to the hospital where he was declared dead on arrival. This incident is of 6th May, 2021 and First Information Report came to be lodged on 7th June, 2021 i.e. after more than a month of the incident.

3. Learned counsel Shri Bhide submits that as per narration in the First Information Report, applicant is alleged to have assaulted on the head of the deceased by means of an iron rod. However, PM report belies this narration. He submits that there is delay of one month for which no explanation is forthcoming.

4. Learned APP Shri Badakh submits that Medical Officer has opined when weapon was shown to him that injury on cheek can be caused by means of the weapon seized i.e. iron rod.

5. Charge-sheet is filed. On perusal of the PM report, it reveals that there is no injury on the head of the deceased. There is one injury on the mandible bone of the deceased. However, PM report shows that death was caused due to head injury. When PM report does not indicate any head injury, how death is possible due to head injury is not explained by the prosecution. In addition to this, there is delay of one month in lodging First Information Report for which no explanation is forthcoming. On the basis of such scanty evidence, applicant cannot be detained behind the bars for an indefinite period. Applicant has no criminal antecedents. This appears to be his first offence. He is not likely to flee from justice as he has landed property at village Khadki Bk. Tq. Akole, Dist. Ahmednagar. Having regard to this, I am inclined to pass the following order:-

ORDER

- i) Application is allowed.
- ii) Applicant be released on PR Bond of Rs.15,000/- (Rs. Fifteen Thousand) with one solvent surety in the like amount in connection with Crime No. 086/2021 registered with Rajur Police Station, Dist. Ahmednagar, for the offences punishable under Sections 302, 324 read with Section 34 of the Indian

Penal Code on condition that he shall not tamper with the prosecution evidence.

iii) Application stands disposed of.

iv) It is clarified that the observations 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

dyb