

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

930 BAIL APPLICATION NO.1735 OF 2021

- 1) Sachin s/o Waman Birajdar
- 2) Sadashiv s/o Waman Birajdar
- 3) Waman s/o Dhondiba Birajdar

VERSUS

The State of Maharashtra

Shri. P. R. Katneshwarkar, Advocate h/f Shri. R. R. Kazi,
Advocate for the applicants
Shri. S. B. Narwade, APP for the respondent/State

**CORAM : M. G. SEWLIKAR, J.
DATED : 21st January, 2022**

PER COURT :-

1. By this application, applicants are seeking their release on bail in connection with Crime No. 0185 of 2021 for the offences under Sections 302, 323, 324, 504, 506 read with Section 34 of the Indian Penal Code registered with Kasarshirshi Police Station, Dist. Latur.

2. Informant is the son of Subhash Birajdar (since deceased). Applicant No. 3 is the real brother of Subhash Birajdar. Since one year before the incident, a civil dispute is

going on between Subhash Birajdar and applicant No. 3.

3. Narration of the FIR shows that on 7th July, 2021 at 8 a.m. applicant Nos. 1 to 3 assaulted the deceased Subhash Birajdar by means of iron rod, stick. The cause of assault was the property dispute. Applicant No. 1 Sachin Birajdar dealt a blow of iron rod on the head of deceased Subhash. Applicant No. 2 Sadashiv Birajdar delivered a blow of stick on the head of the deceased Subhash. Informant is an eye witness to the incident. When he tried to intervene applicant No. 2 assaulted him with stick. Applicant No. 3 assaulted deceased by means of stick on his chest. On these allegations FIR came to be registered.

4. Heard learned counsel Shri. Katneshwarkar h/f Shri. Kazi, learned counsel for the applicants and Shri. Narwade, learned APP for the respondent/State.

5. Learned counsel Shri. Katneshwarkar submits that applicants have been falsely implicated on account of

property dispute.

6. On perusal of the charge-sheet, it is revealed that applicant Sachin Birajdar delivered a blow of iron rod on the head of the deceased Subhash. Applicant No. 2 delivered a blow of stick on the head of deceased Subhash. Post mortem report corroborates the contents of the FIR. P.M. report indicates that deceased had two injuries on head with depressed fracture. Applicant No. 3 is alleged to have delivered a blow of stick on the chest and thigh of the deceased. However, post mortem report does not corroborate the allegations in the FIR. P.M. report does not indicate any other injury except injury on head. Therefore, I am inclined to release the applicant No. 3 on bail. There are no criminal antecedents against applicant No. 3. Learned APP submits that counter case is pending. In view of this, I am inclined to release the applicant No.3 on bail. Hence the order.

ORDER

1. Application is partly allowed.
2. Applicant No. 3 – Waman s/o Dhondiba Birajdar

be released on bail on his furnishing PR bond of Rs. 15,000/- (Rupees Fifteen Thousand only) with one solvent surety in the like amount in connection with CR No. 0185 of 2021 under Sections 302, 323, 324, 504, 506 read with Section 34 of the Indian Penal Code registered with Kasarshirshi Police Station, Dist. Latur, on condition that he shall not tamper the prosecution evidence.

3. Application of applicant Nos. 1 and 2 is dismissed.

4. Application is disposed of.

4. 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, J.]

ssp