

...Applicant

...Respondent

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Mr. Satyavrat Joshi i/b Mr. Pawar Samay Sharad for the Applicant.
Mr. V. B. Konde-Deshmukh, APP for the State.

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DATED : 15 NOVEMBER 2022

This is an application under Section 439 of Code of Criminal Procedure.

2. The applicant came to be arrested in Crime No. 271 of 2019 registered at Vadagaon police station for the offence punishable under Section 302 read with 34 of Indian Penal Code.

3. It is the case of the prosecution that on 24.05.2019 at about 9.30 pm the present applicant assaulted the deceased by sickle and stone and committed his murder.

4. I have heard the learned counsel for the applicant and the learned APP for the respondent-State.

5. The learned counsel for the applicant submits that the deceased was harassing the mother of the present applicant. It is submitted that on 30.03.2018 the deceased assaulted the present applicant as he objected to the act of the deceased. It is submitted that report was lodged in respect of the said assault and on the basis of said report Crime No. 102 of 2018 against the deceased for the offence punishable under Section 307, 452, 504, 506 of Indian Penal Code was registered. It is submitted that on the day on incident the deceased came to the house of the present applicant and started abusing him and his family members. The applicant thought the deceased would again assault him and therefore he picked the sickle which was lying there and assaulted the deceased.

6. It is submitted that the applicant is in jail for more than three years. The further detention is not necessary, as the investigation is over. It is thus submitted that applicant may be released on bail.

7. On the other hand the learned APP submits that there are eye-witnesses to the incident. It is submitted that the present applicant brutally assaulted the deceased by sickle. Considering the nature of the offence the applicant may not be released on bail.

8. I have perused the charge-sheet and more particularly the statement of eye-witnesses. It appears that on the day of incident the deceased came to the house of the present applicant and started abusing him and his family members and thus, the incident does not appear to be premeditated.

9. Considering the facts and circumstances of the case, I am inclined to release the applicant on bail. Hence, the following order is passed:

- (i) Application is allowed.
- (ii) The applicant be released on bail in Crime No. 271 of 2019 registered at Vadagaon police station for the offence punishable under Section 302 read with 34 of Indian Penal Code furnishing PR bond in the sum of Rs.25,000/- with one or two sureties in the like amount.

(N.R. BORKAR, J.)