

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPEAL NO. 622 OF 2021

Anil Balu Vitkar

..Appellant.

Versus

The State of Maharashtra & Anr.

..Respondents

Mr. A. P. Mundargi, Sr. Advocate i/b. Mr. Meghdeep Oak for Appellant.

Ms. G. P. Mulekar, APP for State/Respondent

Mr. A. R. Avachat, appointed advocate for Respondent No.2.

**CORAM : S. S. SHINDE AND
SARANG V. KOTWAL, JJ.**

DATE : 6th APRIL 2022.

PC :

1. This is an Appeal challenging the order denying bail to the appellant. The offences alleged are U/s.302, 307, 364, 143, 147, 148, 149, 506 of IPC and under sections 3(2), 3(v), 3(va) and 6 of The Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act.

2. Heard Shri. Mundargi, learned senior advocate for the Appellant, Mr. Avachat, learned counsel for the Respondent No.2 and Ms. Mulekar, learned APP for the State.

3. The appellant was arrested on 02/03/2021 after the incident which had taken place on 20/04/2019. The F.I.R. is

lodged by the Respondent No.2 about assault on herself and on her husband due to which he had died in the incident. It is stated in the F.I.R. registered with Phaltan police station vide C.R.No. 210 of 2019 that, on 20/04/2019 the deceased and the informant herself came back to their house at about 1.00p.m. After that they went to the field of one Jadhav and had their meals there. At that time, four persons working on the well of one Shedge came there. They claimed that the informant and her husband had stolen their mobile phones and on that count, they took them in front of the house of accused No.1. Both of them were assaulted by wooden sticks. After that, at about 3.00p.m. the informant and her husband were carried in a four wheeler and they were taken to Algudewadi and again they were assaulted with wooden sticks. The assailants were constantly assaulting and demanding their mobile phones and were saying that unless phones were not returned they would not leave them. Because of the assault, informant's husband became unconscious. The assailants gave a water bottle and went away from the spot. Informant's husband hardly drank some water and succumbed to his injuries. The informant went back to her

village and informed her relatives. Thereafter this F.I.R. was lodged.

4. Shri. Mundargi, Learned senior counsel for the appellant submitted that, all the other accused are already on bail. Accused No.1 was granted bail on consideration of merits of the matter. Other three accused were granted bail under the provision of Section 167 of Cr.p.c. He submitted that, though, he is not claiming parity, these facts can be taken into consideration for grant of bail to the present appellant. He further submitted that, taking the allegations as they are, the offence punishable U/s.302 of IPC is not made out. The intention was not to commit murder of the deceased, but it was caused because of beating to recover the mobile phones which allegedly were stolen by the deceased.

5. Learned counsel for the Respondent No.2, as well as, the learned APP submitted that, assault was brutal for a petty issue and on mere suspicion. The informant and her husband were assaulted brutally by all the four accused. The appellant himself was not a poor man as his father has given a statement that he had purchased a four wheeler. They submitted that it is not the case for

grant of bail.

6. We have considered these submissions. The F.I.R. has clearly described the incident. Besides the first informant, there are statements of Hemant Shedge, Suvarna Shedge and Ramdas Shedge corroborating the major part of the narration in the F.I.R.

7. The Postmortem notes show that the deceased had suffered as many as 14 injuries all over his body. The cause of death was mentioned as "Death due to Polytrauma". The injury certificate of the informant herself shows that she had suffered six injuries, out of which, 2 injuries were described as grievous injuries.

8. Looking at the nature of injuries suffered by both the informant and her husband, it is clear that the assault was brutally committed on both of them. The offence under the said Act is clearly made out. Even otherwise, looking at the nature of assault, we are not inclined to grant bail to the present appellant.

9. The Appeal is dismissed.

(SARANG V. KOTWAL, J.)

(S. S. SHINDE, J.)