

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO.632 OF 2022**

Ankush Vasant Shinde ... Applicant
versus
The State of Maharashtra ... Respondent

Mr. Kuldeep S. Patil i/by Mr. Prashant S. Hagare, for Applicant.
Mrs. M.R.Tidke, APP, for State.
Mr. P.N.Chaudhar, PC, Yavat Police Station, Pune Gramin, present.

CORAM: N.J.JAMADAR, J.

DATE : 1st JULY, 2022

P.C.

1. This is an application for bail in a prosecution arising out of C.R.No.575 of 2021 registered with Yavat Police Station, Pune (Rural).
2. The Applicant is arraigned in the above crime with the allegations that the Applicant and his family members had strained relations with Mr. Vikram S. Shinde, who runs a brick kiln. Somnath Vikram Shinde, the first informant, is the son of Vikram. Govind Suklal (the deceased) had joined as a labourer in the brick kiln of the first informant eight days prior to the occurrence.
3. On 29th June, 2021 the first informant's uncle Bhagwat Shinde informed the first informant that the Applicant – Ankush forcibly took away the deceased on the former's motorcycle. The first informant and his brother in law Buvasaheb Dhanve went in search of the deceased and the Applicant. At about 8.30 p.m., while they

were passing across the ground, they heard shouts emanating from near the cricket pitch. They went thereat and found the Applicant assaulting the deceased by means of stick and stone. Noticing them, the Applicant fled away despite an effort by Buvasaheb Dhanve to catch hold of him. The deceased was shifted initially to Akshay Nursing Home, Waravand. Later on, as the condition of the deceased was critical, he was shifted to Sassoon General Hospital, Pune, where the deceased succumbed to the injuries on 16th July, 2021.

4. In the meanwhile, on 30th June, 2021 the first informant lodged a report. Investigation commenced. The Applicant came to be apprehended. Pursuant to the discovery made by the Applicant, a stick was recovered from a place near Roshan Supermarket. Post completion of investigation and finding the complicity of the accused, charge sheet has been lodged.

5. The Applicant has preferred this application for bail. It is contended that there was no motive. Neither there was intention to cause death, nor the Applicant had used any deadly weapon. Thus, the Applicant deserves to be enlarged on bail.

6. I have heard Mr. Kuldeep Patil, learned Counsel for the Applicant and Mrs. Tidke, learned APP for the State.

7. Mr. Patil, learned Counsel for the Applicant would urge that the deceased passed away on 16th July, 2021, well after 16 days of the alleged occurrence.

The Medical Officer opined that the victim died on account of the complications following head injury. In the circumstances, according to Mr. Patil, even if the prosecution case is taken at par, it would be difficult to sustain the charge for the offence punishable under Section 302 of the Indian Penal Code. Moreover, there was no motive for the Applicant. At best, it can be said that the victim died in a fistickuffs.

8. In opposition to this, learned APP submitted that there is direct evidence in the form of the ocular account of the first informant and Buvasaheb Dhanve, brother in law of the first informant. Both the witnesses have consistently stated that, hearing shouts, they went near the cricket pitch, on the ground, and found that the Applicant was assaulting the deceased by means of stick and stone. The mere fact that the deceased succumbed to those injuries, after a fortnight, does not justify an inference that the act was not committed by the Applicant with intent to cause death of the deceased. Reliance was also placed on the recovery of the weapon of offence i.e. stick, pursuant to the disclosure statement made by the Applicant.

9. I have given my anxious consideration to the aforesaid rival submissions. In order to ascertain the nature of the injuries which the deceased had sustained on the day of occurrence i.e. 29th June, 2021, the Investigating Officer was directed to place on record the medical papers. The medical record maintained at Sassoon General Hospital, indicates that the Applicant was brought thereat with history of head injury, loss of consciousness and nose and oral bleed. The history of assault by

means of stone was also recorded.

10. In the aforesaid context, it would be relevant to note that the first informant and Bhausaheb Dhanve state that upon being apprised by Bhagwat Shinde, they went in search of the Applicant and the deceased. They heard shouts emanating from near the cricket pitch, on the ground. They claimed to have seen the Applicant assaulting the deceased by means of stick and stone.

11. At this stage, there is a prima facie material to show that the Applicant was found assaulting the deceased. The material on record, however, does not indicate that the Applicant was initially armed with any weapon. Bhagwat Shinde who had allegedly seen the victim being taken away by the Applicant does not state that at that time the Applicant was armed with any weapon. The scene of occurrence panchanama indicates that a stone, which could fit in the palm, was seized from the spot. The stick which was allegedly recovered pursuant to the discovery allegedly made by the Applicant, was having a length of 3.6 inch and a radius of one inch.

12. Prima facie, the aforesaid weapons of offence, with which the Applicant allegedly assaulted the deceased, do not appear to be deadly weapons. From the perusal of the medical papers, it appears that the deceased had injuries primarily on the head and face.

13. In the aforesaid backdrop, even if the prosecution case is taken at par, the aspect as to whether the Applicant had inflicted the injuries with intent to cause the

death of the deceased, is a matter which warrants consideration. Since the deceased had allegedly joined the first informant 8 days prior to the occurrence, prima facie, the submission on behalf of the Applicant about absence of motive to liquidate the deceased, also warrants consideration

14. In the totality of the circumstances, especially having regard to the time and place of the occurrence, the weapons allegedly used, and the injuries suffered by the deceased, which eventually led to the death of the deceased, after about 16 days of the occurrence, in my view, a prima facie case for exercise of discretion is made out.

15. The apprehension on the part of the prosecution can be taken care of by imposing appropriate conditions. Hence, the following order :

ORDER

(i) The Application stands allowed.

(ii) The Applicant – Ankush Vasant Shinde be released on bail in C.R.No.575 of 2021 registered with Yavat Police Station, Pune (Rural), on furnishing a PR bond in the sum of Rs.30,000/- and one or two sureties in the like amount to the satisfaction of the learned Sessions Judge.

(iii) The Applicant shall not tamper with the prosecution evidence and/or give threat or inducement to any of the prosecution witnesses.

(iv) The Applicant shall mark his presence in the jurisdictional Court of the learned Sessions Judge once in three months for a period of two years.

(v) The Applicant shall not enter the limits of Deulgaon Gada, Tal. Daund, Pune for a period of one year from today.

(vi) The Applicant shall, within a period of 7 days from his release, furnish details of his place of residence during the aforesaid period of one year as well as his permanent address and contact details to the Police Inspector, Yavat Police Station and update the same in the event of any change therein.

(vii) By way of abundant caution, it is clarified that the observations hereinabove are confined to the consideration of the entitlement for bail and they may not be construed as an expression of opinion on the guilt or otherwise of the applicant.

The Application stands disposed.

(N.J.JAMADAR, J.)