

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO. 958 OF 2022

Gautam S. Chavan

...Applicant

V/s.

State of Maharashtra

...Respondent.

Mr. Ganesh Gole i/b Mr. Ritesh Ratnam for the Applicant.
Mr. V.B. Konde- Deshmukh, APP for the Respondent / State.

CORAM : N.R. BORKAR, J.
DATE : 17.10.2022.

P.C. :

1. This is an application under Section 439 of Code of Criminal Procedure, 1973 for bail.
2. The applicant came to be arrested in C.R. No.283 of 2020 registered at Kharghar Police Station for the offence punishable under Section 302 read with 34 of the Indian Penal Code.
3. It is the case of the prosecution that on 19 December 2020, the present applicant and other co-accused, who is brother of the present applicant, assaulted the deceased Munnalal Chavan by stick and committed his murder, on account of dispute in relation to agricultural land.
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 according to the prosecution on the day of incident altercation took place between the deceased and the accused. It is submitted that according to the first informant and other eye-witnesses, during the said altercations the co-accused in the present crime snatched the stick which the deceased was carrying and assaulted him by the said stick. It is submitted that according to the prosecution the present applicant assaulted the deceased by first and kick blows. It is submitted that considering these facts, the applicant may be released on bail.

6. On the other hand, the learned APP submits that there are eye-witnesses to the incident. It is submitted that considering the nature of offence, the applicant may not be released on bail.

7. I have perused the FIR and supplementary statement of first informant, who according to the prosecution is eye-witness to the incident. According to the first informant, at the time of incident the deceased was having stick. According to him, the co-accused in the crime had snatched the said stick and assaulted the deceased. The statement of eye-witness is similar to that of first informant. According to the prosecution, the applicant had assaulted the deceased by kicks and fist blows on his stomach. However, perusal of post mortem report does not reveal either external or internal injury to the stomach and there are only two injuries, i.e., (1) Lacerated wound of size 12 x 2.0 cm x bone deep, red in colour margins irregular and blood infiltration present over left parietal region and (2) Linear abrasion of size 5 x 0.3 cm red in

colour, vertical present over left parasternal region. The cause of death of deceased is head injury.

8. Considering these facts and circumstances, I am inclined to release the applicant on bail. In the result, the following order is passed.

ORDER

A] Bail Application is allowed.

B] The applicant be released on bail in C.R. No.283 of 2020 registered at Kharghar Police Station for the offence punishable under Section 302 read with 34 of the IPC on furnishing P.R Bond in the sum of Rs.25,000/- (Rupees Twenty Five Thousand) with one or two sureties in the like amount.

[N.R.BORKAR, J.]