

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

BAIL APPLICATION NO.1338 OF 2022

Balu Gajanan Budhawale
Age 36 yrs, Occ:Agriculture
R/O Budhawalewadi A/p Visapur
Tal-Khatav, Dist-Satara,
Presently detained at
Kolhapur Central Jail at Kalamba ...Applicant.

Versus

The State of Maharashtra
Through API Pusegon Police
Station, Tal-Khatav Dist-SataraRespondent.

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Mr Rahul Dhaigude, Advocate for the Applicant.
Mr V.B. Konde Deshmukh, APP for the State.

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CORAM : R. N. LADDHA, J.

DATE : 7 DECEMBER 2022.

P.C.:

Heard Mr Rahul Dhaigude, learned Counsel appearing for the Applicant and Mr V.B.Konde Deshmukh, learned Additional Public Prosecutor appearing for the Respondent-State.

2. The Applicant in the present case is seeking bail in connection with C.R.No.71 of 2022 registered at Pusegaon Police Station, Satara, against the Applicant for the offences punishable under Sections 302, 307, 143, 147, 148, 149, and 188 of the Indian Penal Code, Section 3 and 5 of the Arms Act, Section 11 of

Covid 2019 Act and Section 51(b) of the Maharashtra Public Records Act.

3. The allegations against the Applicant and other co-accused are that they conspired together and assaulted the deceased. The Applicant threw a big stone weighing 32 kg. on the head of the deceased and accused Suraj hit the stone at the face of the deceased. The deceased succumbed to injuries and died on the spot.

4. The learned Counsel for the Applicant submits that the co-accused Suraj having a similar role, has been released on bail, and therefore, the Applicant is entitled to parity. It is submitted that the Applicant has no criminal antecedents. It is submitted that the investigation is complete, and the charge sheet has been filed. The Applicant has been in jail since 24.4.2020. It is submitted that the deceased Himmat was having criminal antecedents. Further, it is submitted that there is a delay in lodging the FIR.

5. Mr V.B.Konde Deshmukh, learned Additional Public Prosecutor appearing for the State, submitted that the offence is serious and the Applicant was actively involved in the offence that led to the registration of the FIR against the accused persons. It is submitted that accused no.1 is the main accused person who, threw a big stone at the head of the Applicant. On this basis, it was submitted that the present application deserves to be dismissed.

6. This Court has perused a copy of the charge sheet filed along with the accompanying documents and the orders granting bail to the co-accused. The material on record shows that the case of the present Applicant is distinguishable from that of the co-accused Sanjay and Suraj, who were granted bail. Insofar as the present Applicant is concerned, prima facie, there is material on record to indicate the presence of the Applicant and his specific role in the crime. It appears that initially, the Applicant threw a big stone weighing 32 kg. on the head of the deceased and the accused Suraj followed it and the accused Suraj then threw a stone at the face of the deceased. In the Post Mortem, the skull fracture and all the sutures of skull and bones were noticed. There is direct evidence against the Applicant.

7. In view of the above, this Court is of the opinion that, looking to the seriousness of the offence and the gruesome manner in which the deceased was murdered, the Applicant can not be granted bail. This Court is of the opinion that the material on record prima facie indicates the active involvement of the Applicant, and therefore, the application is dismissed. The observations made in this order are limited to the question of the grant of bail to the Applicant.

[R. N. LADDHA, J.]

