

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

BAIL APPLICATION NO. 2988 OF 2021

Vishwanath @ Dada Vikram Pawar

.. Applicant

Versus

The State of Maharashtra

.. Respondent

Ms. Angela Singha a/w Ms. Anima Mishra, Mr. Rakesh Mishra and Mr. Nagesh Avhad i/b SBG Law, Advocates for the Applicant.

Mr. R. M. Pethe, APP, for the Respondent-State.

CORAM : VINAY JOSHI, J.

DATE : 25th APRIL, 2022.

P.C.:

. Heard.

2. The applicant is seeking regular bail in Crime No. 27 of 2021, registered with Satana Police Station, District Nashik, for the offence punishable under Sections 302, 307, 326, 504 r/w 34 of the Indian Penal Code.

3. The bail is claimed on the grounds of innocence, false implication and inadequacy of material. Besides that, the applicant's learned Counsel submits that no dangerous weapon was used in commission of crime. The incident was outcome of sudden quarrel, therefore, the provisions of Section 302 would not attract. The State resisted bail by pointing seriousness of the offence. It is submitted that the Informant is eye witness

to the occurrence. The applicant has repeatedly dealt blows on the person of deceased. The offence may attract capital punishment, therefore, bail is prayed to be rejected.

4. At the instance of report lodged by Dnyaneshwar Pawar, the crime came to be registered. It is prosecution case that on 16th January, 2021, around 01:00 p.m. the Informant's uncle Sanjay Pawar was doing agricultural work. At that time, the co-accused Vikram Pawar (father of applicant) was at his adjacent field. The Informant's uncle Sanjay (deceased) asked the co-accused Vikram as to why he is putting grass on the common bandh. The quarrel erupted, in which co-accused Vikram assaulted the deceased by spade whilst the applicant also assaulted him with iron pipe. Initially the applicant threatened to the deceased and then both of them dealt repeated blows on the person of deceased to which he succumbed later on.

5. It is the prime contention that the incident was outcome of sudden quarrel, no dangerous weapon was used, therefore requisite intention cannot be gathered. Though spade is an agriculture equipment, it can cause fatal consequences on its use. The applicant has used iron bar, which is a dangerous weapon. Perusal of P. M. Note discloses that there were in all five injuries. It would be too premature to express that the alleged act can be termed as culpable homicide not amounting to murder.

6. *Prima facie* it is evident that the applicant and his uncle both have assaulted on flimsy ground to a nearby agriculturist by means of spade and

iron pipe. Repeated blows were dealt including at the head. It is a case of direct evidence. Both parties are neighboring residents. Having regard to the seriousness of offence and the direct role played by the applicant, the applicant does not deserves for bail. In view of that, the application stands rejected.

(VINAY JOSHI, J.)