

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO. 3026 OF 2021

Fazale Haq Abdul Haq Shaikh ...Applicant

Versus

The State of Maharashtra ...Respondent

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Mr. Aniket U. Nikam i/b. Mr. Vivek N. Arote for the Applicant.
Mr. Ameet A. Palkar, APP for the Respondent -State.

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CORAM : V.G.BISHT, J.
RESERVED ON : 17TH DECEMBER, 2021
PRONOUNCED ON : 21ST JANUARY, 2022

PC:-

1. The present application has been moved by the applicant under Section 439 of the Code of Criminal Procedure in Crime No. 520 of 2020 registered with Yawat Police Station, Pune Rural for the offence punishable under Sections 302, 307, 504 and 506 of the Indian Penal Code (the IPC).

2. The applicant is father of informant. Deceased Shalu Gajanan Rajanhire was the mother of informant. On 9th May,

2020 at about 9 p.m., the applicant enquired with the deceased whether food is cooked or not and why she is causing delay in preparation of food and thereafter, started abusing her. Prosecution alleges that the applicant then picked up a stick and started beating informant and deceased. When informant snatched stick from the hand of applicant, he took out a small knife from his pocket and stabbed informant and deceased. When the neighbours, namely, Keshav Murlidhar More and his wife Vijaya Keshav More tried to separate the quarrel, they were also assaulted by applicant by means of a knife. Deceased was rushed to the hospital, but Doctor on admission declared her dead. Informant accordingly lodged the First Information Report (FIR).

3. Mr. Nikam, learned Counsel for the applicant, submits that the whole incident took place at a spur of moment and therefore, in such circumstances, it cannot be said that applicant committed murder of the deceased and would be liable under Section 302 of the IPC. According to learned Counsel, knife allegedly used in the commission of offence is

duly recovered. Investigation is completed. Charge-sheet has been filed. No purpose would be served by keeping the applicant behind the bars. .

4. Mr. Palkar, learned APP, on the other hand, does not dispute the above submissions. However, learned APP submits that not only the deceased was done to death but informant and other prosecution witnesses were also seriously injured by the applicant. In such circumstances, the application may not be allowed.

5. Perused investigation papers.

6. From FIR, it is clear that it is on account of delay in preparation of food the applicant got annoyed and therefore, assaulted informant son and deceased wife initially by means of a stick and later on by means of a small knife.

7. I have also gone through the statements of injured neighbour witnesses, namely, Keshav Murlidhar More and his wife Vijaya Keshav More. Both of them in their respective

statements state that when they tried to separate the quarrel, they were also assaulted by applicant by means of a knife on their abdomen. It is also clear from the record that a knife allegedly used in the commission of offence is duly recovered during the course of investigation at the instance of applicant.

8. Having regard to the relationship between applicant and informant and as also deceased and the fact that the whole incident took place at a spur of moment *prima facie* cannot be said that applicant had intention to kill his own wife. Investigation is completed. Charge-sheet has been filed. Therefore, the custody of applicant is unwarranted.

9. In view of above, I am inclined to allow the application. Hence, the following order :

ORDER

(i) Applicant- Fazale Haq Abdul Haq Shaikh shall be released on bail in C.R. No. 520 of 2020 registered with Yawat Police Station, Pune Rural

on his executing PR. Bond in the sum of Rs. 25,000/- with one or two surety/ sureties in like amount.

(ii) The applicant shall not tamper with prosecution evidence.

(iii) The applicant shall attend the trial Court proceedings regularly.

(iv) Bail before the trial Court.

(v) It is made clear that the observations made herein are *prima facie* and the trial Court shall decide the case on its own merit, in accordance with law, uninfluenced by the observations made in this order.

(vi) The application is allowed in the aforesaid terms and stands disposed of accordingly.

(V.G.BISHT, J.)

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