

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO.3081 OF 2021

1. Manoj Suresh Waghoskar,
2. Deepak Dhondu Andhere,
3. Nandu Laxman Kharade,
4. Mrs.Sangeeta Nandu Kharade,
5. Sakharam Laxman Kharade

Applicants

versus

The State of Maharashtra

Respondents

Mr.Nitin Sejpai with Ms.Pooja Sejpai, Ms.Akshata B. Desai, Advocates
for applicants.

Mr.A.A.Palkar, APP, for State.

CORAM : PRAKASH D. NAIK, J.

DATE : 11th October 2022

PC :

1. The applicants were arrested on 17th May 2021 in C.R.No.I-50 of 2021 registered with Goregaon Police Station, District Raigad for offences under Sections 302, 143, 147, 149, 323, 506 of Indian Penal Code.

2. The FR was registered by Omkar Kashiram Kharade on 16th May 2021. It is alleged that on 16th May 2021 all the applicants had assaulted his father by fist and kick blows. He was died with rope and pulled by them. The father of complainant died on the same day. The statement of another eye witness Pravin Tukaram Kharade was recorded on 18th May 2021 which is identical to the version of complainant.

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3. Learned advocate for the applicant submitted that the entire family has been roped in the FIR registered by the son of deceased. The applicants are impleaded on account of enmity between both sides. The version of complainant and the eye witness is same. Some of the accused received injuries which has not been explained by prosecution. The offence u/s.302 of IPC is not made out. Reliance is placed on the injuries reflected in the post mortem report. The applicants are in custody from 17th May 2021. One of the applicant is lady.

4. Learned APP submitted that there are two eye witnesses to the incident. The first informant was present at the time of assault. All the applicants are attributed the role of assaulting the deceased. The deceased had sustained several injuries on his person. Some of the accused had suffered minor injuries to their wrist and hands while were pulling deceased. There was motive to commit murder. Hence no bail should be granted to the applicants.

5. Undisputedly the relations between both the families are not cordial. None of the applicant was armed with any weapon. All the family members are involved in the case. According to complainant he saw the applicants assaulting his father and he left the place of incident. He again returned to the spot and saw his father lying injured. Version of Pravin Kharade is similar. On perusal of the injuries reflected in the post mortem report, it can be seen that the deceased had suffered abrasions on the person and fracture to the ribs. The applicants are in custody from 17th May 2021. It is debatable whether Section 302 can be invoked in this case. Considering the nature of allegations and factual aspects as stated

above, case for grant of bail is made out.

ORDER

- (i) Bail Application is allowed and disposed off;
- (ii) The applicants are directed to be released on bail in connection with C.R No.I-50 of 2021 registered with Goregaon Police Station, District Raigad, on executing P.R bond in the sum of Rs.25,000/- with one or more sureties in the like amount;
- (iii) The applicants are permitted to furnish cash bail in the sum of Rs.25,000/- for eight weeks;
- (iv) The applicants shall report Goregaon Police Station, District Raigad once in a month on every first Saturday between 11 am and 1 pm for first six months and thereafter once in three months on first Saturday between 11 am and 1 pm till further orders;
- (v) The applicants shall not tamper with evidence;
- (vi) The applicants shall attend Trial Court proceedings regularly unless exempted by Trial Court.

(PRAKASH D. NAIK, J.)

MST