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

BAIL APPLICATION NO. 3344 OF 2021

Dattatray @ Bablu Krishnat Jadhav ...Applicant

Versus

The State of Maharashtra ...Respondent

**WITH
BAIL APPLICATION NO. 1182 OF 2021**

Raju Genu Chavan ...Applicant

Versus

The State of Maharashtra ...Respondent

.....

Mr.Kedar J. Patil for the Applicant in BA No. 3344 of 2021.

Mr. Vaibhav R. Gaikwad for the Applicant in BA No. 1182 of 2021.

Mrs. P.P.Shinde, APP for the Respondent -State.

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CORAM : V.G.BISHT, J.

RESERVED ON : 8TH DECEMBER, 2021

PRONOUNCED ON : 3RD JANUARY, 2022

PC:-

1. The present applications have been moved by the applicants under Section 439 of the Code of Criminal Procedure in Crime No. 136 of 2019 registered with Aundh

Police Station, District -Satara for the offence punishable under Sections 302 and 396 of the Indian Penal Code (the IPC).

2. Sunil Gopal Lokhande is formal complainant/informant. According to him, his brother Raviraj (since deceased) worked as a driver and salesman with one Smt.Vijaya Bhosale, who runs a Bakery. It is alleged that on 16th October, 2019 at about 1.30 pm, deceased proceeded in his TATA ACE company vehicle. In the night, the informant came to know that his brother has been assaulted by some persons by sharp weapons. The deceased was taken to the hospital but declared brought dead. The First Information Report was accordingly lodged against unknown persons.

3. During the course of investigation, it revealed that when deceased had reached Mauje Kalavni, Taluka- Khatav near Siddhanath Doodh Dairy, some unknown persons dragged him out of vehicle and assaulted with sharp weapon on his right arm. Accordingly, accused came to be arrested.

4. Accused Raju Genu Chavan (applicant) led to discovery of an amount of Rs. 3,050/- along with a bag. Accused Dattatray @ Bablu Krishnat Jadhav (applicant) also led to the recovery of Samsung mobile belonging to deceased. A motorcycle used for the purpose of commission of crime was also recovered from applicant Raju Genu Chavan and also a sword. Similarly, some amount is also recovered from accused Rahul Arun Menon and from accused Mahesh @ Nana Haridas Chavan (who is on bail), a knife used for commission of the crime is seized.

5. Mr. Patil, learned Counsel for the applicant in Bail Application No. 3344 of 2021, submits that there is no eye witness to the incident. There is no direct evidence to show that the applicant had assaulted deceased. The only evidence against the applicant is recovery of mobile of deceased. The chain of circumstances is not completed by the prosecution to point out that the applicant is involved in the alleged crime. Investigation is completed. Charge-sheet has been filed and

therefore, no purpose would be served by keeping the applicant behind the bars.

6. Mr.Gaikwad, learned Counsel for the applicant in Bail Application No. 1182 of 2021, submits that except recovery of amount, there is no other direct evidence to connect the applicant with the alleged crime.

7. Mrs. Shinde, learned APP, submits that there is recovery of mobile of deceased as also cash amount. Moreover, there are criminal antecedents. Having regard to the nature of offence and the fact, there being no merit in the applications, the same are liable to be rejected.

8. Perused the investigation papers.

9. It seems that the case of prosecution is based on circumstantial evidence. However, there is no test identification parade. It is also not disputed that except recoveries from both the applicants, there is no other circumstantial evidence to complete the chain of circumstances. While rejecting the applications, the trial

Court has also observed that the prosecution case is based on circumstantial evidence.

10. As of now, the only incriminating circumstances against the applicants are recovery. There are no other circumstances which prosecution has been able to establish *prima facie* so that the circumstance of the recovery can be read with other positive circumstance (s).

11. Needless to say, the applicants have made out a case for bail. Hence, the following order :

ORDER

(i) Applicant- Dattatray @ Bablu Krishnat Jadhav shall be released on bail in C.R. No. 136 of 2019 registered with Aundh Police Station, Satara on his executing P.R. Bond in the sum of Rs. 20,000/- with one or two surety/ sureties in like amount.

(ii) Applicant- Raju Genu Chavan shall be released on bail in C.R. No. 136 of 2019 registered with Aundh Police Station, Satara on his executing P.R.

Bond in the sum of Rs. 20,000/- with one or two surety/ sureties in like amount.

(iii) The applicants shall not tamper with prosecution evidence.

(iv) The applicants shall attend the trial Court proceedings regularly.

(v) Bail before the trial Court.

(vi) 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.

(vii) The applications are allowed in the aforesaid terms and stand disposed of accordingly.

(V.G.BISHT, J.)