

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

BAIL APPLICATION NO. 2346 OF 2022

Raghunath Sukhdeo Chavan ...Applicant

Versus

The State of Maharashtra ...Respondent

WITH

INTERIM APPLICATION NO. 3840 OF 2022

IN

BAIL APPLICATION NO. 2346 OF 2022

Lalasaheb Namdeo Walekar ...Applicant

Versus

The State of Maharashtra ...Respondent

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Mr. Kalpesh U. Patil for the Applicant.

Mr. A.R. Kapadnis, APP for the State.

Ms Rekha Musale i/b Mr. Nitin Rajguru for the intervener.

Mr. Vaibhav A. Markad, API Akluj Police Station, Present.

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CORAM : N.R. BORKAR, J.

DATED : 29 NOVEMBER 2022

P.C. :-

This is an application under Section 439 of Code of Criminal Procedure for bail.

2. The applicant came to be arrested in Crime No. 677 of 2021 registered at Akluj police station for the offence punishable under Section 302 read with 34 of Indian Penal Code.

3. According to the prosecution on 30 August 2021 at about 6.00 a.m. the present applicant alongwith other co-accused came to the house of the deceased. It is alleged that then they all went

towards Tambve village on motorcycle. It is alleged that at about 9.30 p.m. some altercation took place between the deceased and accused. According to the prosecution the accused were asking the deceased to give them Rs. 100/- for purchasing liquor. It is alleged that as the deceased refused to give the said amount, the present applicant and other co-accused assaulted the deceased by stone and committed his murder.

4. I have heard the learned counsel for the applicant and the learned APP for the respondent-State.

5. The learned counsel for the applicant submits that alleged eye-witnesses are resident of same village. However, they did not disclose to the Investigating Officer that they had seen the incident for eight days. It is submitted that, therefore, they appears to be got up witnesses. It is submitted that considering the facts and circumstances the applicant may be released on bail.

6. On the other hand the learned APP for the respondent-State and the learned counsel for the intervener submits that whether the eye-witnesses are got up witnesses or cannot be gone into at this stage. It is submitted that the applicant has not assigned any reason for the eye-witnesses to implicate the present applicant in such a serious offence. It is submitted that considering the nature of offence the applicant may not be released on bail.

7. I have perused the FIR. It appears that on 30 August 2021 at about 10.30 a.m. the dead body of the deceased was found lying in the agricultural field of one Laxman Chavan. The alleged eye-witnesses were present there at that time. Prima facie, their statements do not disclose any reason for belated disclosure to the Investigating Officer that they are eye-witnesses to the incident. Considering the facts and circumstances, I am inclined to release the applicant on bail. Hence, the following order is passed.

ORDER

- (i) Application is allowed.
- (ii) The applicant shall be released on bail in Crime No. 677 of 2021 registered at Akluj police station for the offence punishable under Section 302 read with 34 of Indian Penal Code on furnishing PR bond in the sum of Rs. 25,000/- with one or two sureties in the like amount.
- (iii) The applicant shall not stay at village Tambve till the conclusion of trial and shall seek permission of the trial Court if he is required to enter the said village.

8. Needless to mention that the observations are prima facie.

9. Interim Application does not survive and the same is disposed of.

(N.R. BORKAR, J.)