

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****BAIL APPLICATION NO.3488 OF 2021****(corrected as per order dated 25/8/2022)**

Bandu A. Chaudhari

.. Applicant

Versus

The State of Maharashtra

.. Respondent

...

Mr. Amrish R.Salunke with Siddhant B. Kusalkar for the applicant.

Ms.A.A. Takalkar, APP for the State.

PSI Shri V.S. Sawant from Sewree police station.

CORAM: BHARATI DANGRE, J.**DATED : 1st JULY 2022****P.C:-**

1 The applicant is charged of the offence punishable u/s.302 read with Section 34 IPC in C.R.No. 144/2020 registered with Sewree police station. The alleged incident took place on 15/8/2020 and he came to be arrested on the same day.

2 Heard the learned counsel for the applicant, learned APP for the State and perused the charge-sheet which is placed on record.

3 The investigating machinery was set into motion on a complaint being filed by one Fazin Mohd. Yunus Khan, who has stated that one Suleman is his wife's brother and he was staying

with his wife Ranjana, daughter and son, and the son from his first wife was also staying with him. He reported to the police that quarrel used to often ensue between Suleman and Ranjana, since Suleman was suspecting that Ranjana was maintaining illicit relationship with her brother Someshwar. On 14/8/2020, he received a call from Suleman, informing him about the quibble and sought his intervention. Resultantly, he reached their house and noticed that the husband and wife were into a serious quarrel, and when he accompanied Ranjana to report to the police station, Suleman caused injury to himself by use of a blade. He was taken to the hospital, but the complainant mediated between the couple and brought them home. On 15/8/2020, when he met the couple, he took assurance from them, that they will lead their life peacefully. However, Ranjana did not return home for some time and when she was asked, she gave some evasive answer. Suleman expressed that he has handed over the papers of the properties and he was leaving his house. While the complainant was present in the house, and Suleman approached the rear side of the house, he would hear his frantic cries and he witnessed that Someshwar had strangulated Suleman and his father-in-law (present applicant) caught hold of him by his pants. Another brother-in-law Rameshwar kicked him and made him fall to the ground and started assaulting him, Accused Laxman was standing on his legs, whereas Rameshwar sat on his chest. One Chhotu Verma, who was also present, came to their rescue and heard him say that since

the deceased was harassing their sister, he would be eliminated today. Someshwar was armed with a knife and was attempting to assault Suleman, but when the complainant pushed him away, the knife fell down. At that very time, his brother Rameshwar picked up a huge stone block lying nearby and assaulted him in his head, resulting into bleeding injury. The accused persons are also alleged to have broken the CCTV cameras and threatened that no one should interfere with them.

4 The version of the complaint is corroborated by the statements of Chhotu Verma, Tarabai Patole, Salina Shaikh, Mangal Gaikwad, who have witnessed the said incident. The role attributed to the present applicant is identical, that he caught hold of the deceased while Rameshwar subsequently assaulted him. The statement of Chhotu Verma is also recorded u/s.164. As far as Ranjana is concerned, her statement is also recorded u/s.164, but she has stated that she has not witnessed the said incident.

5 The learned APP has placed on record the probable cause of death, which is given as 'Head injury'. It is apparent that the act of Rameshwar hitting the deceased with the huge stone block in his hand has caused this injury. Considering the role attributed to the applicant and since it is consistent, in version of all the eye witness, that he only caught hold of the deceased, on the investigation being complete, his incarceration is unnecessary. Since Section 34 of the IPC has been invoked against him, he will take necessary consequences of the common intention

attributed to him in the subject crime. This however, is a matter of trial.

6 The learned APP, when particularly asked, state that the applicant has no antecedents. The prosecution has also not expressed any apprehension that the applicant will not be available for trial.

In the wake of the above, he is entitled for his release.

Hence, the following order.

ORDER

- (a) The Applicant – Bandu Abbaji Chaudhari in connection with C.R.No.144/2020 registered with Sewree Police Station shall be released on bail on furnishing P.R. bond to the extent of Rs.25,000/- with one or two sureties of the like amount.
- (b) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with facts of case so as to dissuade him from disclosing the facts to Court or any Police Officer. The Applicant should not tamper with evidence.

(c) The Applicant shall attend the trial regularly,
unless and until exempted by the trial Court.

7 The Application is allowed in the aforestated terms.

(SMT. BHARATI DANGRE, J.)