

Uday S. Jagtap

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

BAIL APPLICATION NO. 3737 OF 2021

Hemant Kashinath Dhaigude]
Age : 34 years, Occ. Agriculturist]
R/at Morve, Tal. Khandala]
Dist. Satara]
(At present in Yerwada Central Prison)].. Applicant

Vs.

The State of Maharashtra]
(At the instance of the P.I.]
Khandala Police Station, Satara].. Respondent

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Mr. Aniket Nikam i/b Mr. Amit Icham for the applicant
Mrs. P.N. Dabhokar, APP for the respondent – State
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CORAM : PRITHVIRAJ K. CHAVAN, J.

**RESERVED ON : 11th AUGUST, 2022.
PRONOUNCED ON : 17th AUGUST, 2022**

ORAL ORDER :-

1. By this application, under Section 439 of the Code of Criminal Procedure (for short “Code”) the applicant prays for his release, who has been charge-sheeted by the Khandala Police Station in connection with C.R. No. 147 of 2020 for the offences punishable under Sections 302, 324, 323, 504, 506 r/w 34 of the Indian Penal Code.
2. Prosecution story goes like this.

3. Applicant – Hemant Dhaigude is the prime accused along with his father Kashinath Dhaigude (now deceased), mother – Shantabai (who has already granted bail). The first informant is one Vilas Bandal. His son deceased Ravindra Vilas Bandal was brutally assaulted by the applicant and his parents on 1st December 2020 at 10.00 a.m.
4. In the backdrop of the matter, about 12 years before the incident in question, one Ankush Dhaigude, son of Kashinath Dhaigude was murdered wherein son of the informant – Ravindra Bandal was accused. Ravindra Bandal was subsequently acquitted. As such, Kashinath Dhaigude and his family had a grudge against Ravindra Bandal.
5. On 1st December, 2020, around 10.00 a.m. when the complainant reached near the house of one Vinayak Jagtap, adjoining the shop of one Santosh Jagtap, he heard a commotion and quarrel wherein deceased Ravindra Bandal was being assaulted by the applicant and others. The complainant rushed to the spot of occurrence to rescue the deceased. However, the applicant – Hemant Dhaigude had assaulted the deceased with an iron rod on his back and head. Father of the applicant namely, Kashinath Dhaigude assaulted on the face and forehead of the deceased by a sickle. The deceased fell down and ultimately succumbed to the injuries.
6. It is alleged that due to a hue and cry and commotion, at the relevant time, the villagers namely, Kalidas Jagtap, Nitin

Jagtap, Amol Jagtap, Pinu Dabhade and Baburao Choramale came for the rescue of the deceased and the victim. However, the applicant and other accused escaped from the spot.

7. After investigation, a charge-sheet came to be filed against the applicant and others as above.
8. As already stated, mother of the applicant had already been granted bail by this Court while his father Kashinath Dhaigude is reported to be dead.
9. Mr. Nikam, learned Counsel for the applicant, at the outset, submitted that a statement under Section 164 of the Cr.P.C. recorded by Judicial Magistrate, First Class, Khandala qua Vilas Kashinath Bandal, though indicates the names of the applicant, his father Kashinath and his mother – Shantabai as well as name of one Bapu Dhaigude, however, Bapu Dhaigude was not arraigned as an accused by the Prosecution which is something strange in light of the fact that Vilas K. Bandal is said to be an eye-witness. Mr. Nikam would invite my attention to the statement of Vilas K. Bandal, recorded by the Investigating Officer wherein he nowhere stated any of the witness had said that they heard the commotion.
10. I am afraid, the statement of first informant indicates that after hearing the commotion when the deceased was being assaulted, when he reached there he noticed the applicant armed with an iron angle with which he was assaulting his son – deceased Ravindra Vilas Bandal. In his supplementary

statement, the first informant – Vilas Bandal had named Bapu Dhaigude alleging that he had assaulted him by means of a wooden log inflicting blows on his right thigh. Even if the prosecution has not arraigned the said Bapu Dhaigude as a co-accused, it does not *ipso facto* mean that it would lessen the gravity and seriousness of the offence and the specific act attributed to the applicant. It would be far-fetched to construe at this stage that the statement of the first informant is not honest, which aspect would only be decided on merits during trial.

11. Mr. Nikam would submit that the applicant is behind the bars since December, 2020 with no antecedents. There are no chances of getting the trial concluded in the near future. The applicant and the first informant are residents of different Districts and, therefore, there is no likelihood of influence or repeating the similar offence.
12. Learned APP while opposing the application for bail invited my attention to the statements of eye-witnesses namely Usha Pandit Jagtap, Santosh Jagtap and Phulabai Dabhade. These witnesses are consistent in their statement as regards alleged assault upon the deceased by means of an iron angle. The post mortem report indicates that the deceased died a homicidal death due to cardio-respiratory arrest due to intracranial injury due to multiple assault injuries over head.
13. *Prima facie*, the evidence is indeed clinching. The question as to whether incarceration of the applicant till the trial is

concluded would be justified ? As already stated, by imposing certain conditions and in light of the fact that applicant and the informant are residents of different villages and also in view of the fact that father of the applicant has already died, I am inclined to grant bail. Now the order :-

ORDER

(i) Application is allowed.

(ii) The applicant be released on furnishing a P.R. bond in the sum of Rs.50,000/- with one or two sureties in the like amount to the satisfaction of the learned Sessions Judge.

(iii) The applicant shall scrupulously attend each date during trial.

(iv) The applicant shall not, in any manner whatsoever influence or tamper the prosecution's evidence.

(v) The applicant shall furnish his cell number to the Investigating Officer as well as to the trial Court.

(vi) Breach of any of the conditions would entitle the prosecution to seek cancellation of the bail.

14. Application is disposed off in the above terms.

(PRITHVIRAJ K. CHAVAN, J.)