

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.3555 OF 2021

PAPPU @ AVINASH HAUSERAO DEVKATE)...APPLICANT

V/s.

THE STATE OF MAHARASHTRA)...RESPONDENT

Mr.Rahul Dhaygude, Advocate for the Applicant.

Ms.Pallavi Dabholkar, APP for the Respondent – State.

CORAM : V. G. BISHT, J.

RESERVED ON : 10th DECEMBER 2021
PRONOUNCED ON : 20th JANUARY 2022

P.C. :

1 The present application has been moved by the applicant under Section 439 of the Code of Criminal Procedure in Crime No.309 of 2018 registered with Police Station Baramati City, for offences punishable under Section 302, 143, 147, 148 and 149 of the Indian Penal Code (IPC).

AVK

1/6

2 On 29th June 2018 as informant heard commotion in respect of a quarrel at Savatamali Chowk near his house, he went there and found his son, namely, Akshay @ Chota Vimal was made to fall on ground by accused Nana @ Hauserao Devkate by his collar, accused Avinash @ Pappu Hauserao Devkate (applicant) assaulting his son Akshay by means of wooden stick and accused Dattu Gophane and Satyavan @ Baglya Gophane assaulting by means of iron rods, on account of earlier quarrel. Similarly, he also saw others, namely, Dada Devkate, Vikas @ Nana Malgunde, Yogesh Gophane and 2/3 other persons also assaulting his son Akshay by means of fists and kick blows. The prosecution alleges that all the abovesaid accused after forming unlawful assembly, not only assaulted the son of informant, namely, Akshay @ Chota Vimal but also caused his death. The informant, accordingly, lodged First Information Report (FIR).

3 Mr.Rahul Dhaygude, learned counsel for the applicant, submits that no specific allegation against applicant has been made. Moreover, other accused, namely, Nana @

Hauserao Devkate and Aba @ Bala Baban Dhale have been released on bail by this Court. Therefore, the applicant also be given the benefit of parity.

4 Ms.Pallavi Dabholkar, learned APP, on the other hand, opposed the submissions by contending that the role of applicant has been clearly specified by the informant and witnesses. There cannot be ground of parity, in as much as, the accused released on bail had different role. The learned APP also invited my attention to the statement of Deepak Appasaheb Dharme and submitted that the witness has clearly narrated the role played by the applicant. There being no merit in the application, the same is liable to be rejected, argued learned APP.

5 Perused the investigation papers. First of all, I do not find merit in the submission of the learned counsel for the applicant that no specific role is attributed as far as the applicant herein is concerned. If the FIR is read carefully, then it would be seen that the applicant along with other accused was found

assaulting the deceased son of informant by means of wooden stick. A clear role is attributed and even the weapon used by the applicant while assaulting the deceased.

6 The statement of prosecution witness Deepak Appasaheb Dharme also shows that the applicant had given a blow of wooden stick on the head of the deceased and thus this witness also clearly specifies the overt act and the weapon used by the applicant while assaulting the deceased.

7 I have also gone through the postmortem report. Column No.18 of the postmortem report shows that multiple fractures of skull bones including fractures of temporal, parietal, frontal of occipital and maxillary bones were noted. Needless to say, these injuries were found on the head of the deceased. The prosecution has also come with a specific case of assault on the head of the deceased by applicant and others by means of wooden stick and iron rods.

8 As far as accused Nana @ Hauserao Devkate having been released on bail by this Court, there is clear observation of this Court that statement of prosecution witness, namely, Deepak Appasaheb Dharme is silent on which part of the body, he had assaulted. Similar is the case with accused Aba @ Bala Baban Dhale, who is released on bail, in as much as witness Deepak Appasaheb Dharme has made a general statement that the said accused was assaulting the deceased by wooden stick after holding him without assigning the part of the body on which he had assaulted.

9 I have also pointed out that the role of the present applicant is very specific. It has been pin-pointedly stated that he had assaulted on the head of the deceased by means of wooden stick and thus, I do not find merit in the statement that the ground of parity is available to the applicant.

10 Having regard to the material on record, in my view, the applicant has failed to make out a case for bail. Hence, the

following order is passed :

ORDER

Application is rejected.

(V. G. BISHT, J.)