

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

**BAIL APPLICATION NO.4021 OF 2021
WITH
INTERIM APPLICATION (STAMP) NO.299 OF 2022
IN
BAIL APPLICATION NO.4021 OF 2021**

Manoj Bhimrao Ghorpade

...Applicant

Versus

The State of Maharashtra

...Respondent

...

Mr. Ashok Mundargi, senior Advocate with Mr. Dhairyasheel Nalawade,
Mr. Dilip Bodke, Gaurav Parkar, Rutwik Raut, Priyanka Gharge,
Priyanka Pandey for the Applicant.
Mr. Sanjeev Kadam for the Intervenor.
Mr. A.A. Palkar, APP for Respondent -State.

CORAM: SMT. ANUJA PRABHUDESSAI, J.

DATED : 22nd AUGUST, 2022.

P. C. :-

1. The Applicant herein seeks pre-arrest bail in Crime No.80 of 2021 registered with Waduj Police Station, District-Satara for the offences punishable under Sections 143, 147, 148, 302, 323 r/w. 149 of the IPC and Section 3 r/w. 25 of the Indian Arms Act.

2. The aforesaid crime was registered pursuant to the FIR lodged by Bharat Tukaram Patil, PSI of Karad Police Station. A perusal

of the FIR as well as the other material on record prima facie indicates that the deceased Jagdeep Thorat was working with Khatav Man Taluka Agro Processing Ltd. Padal Sugar Factory as General Manager (Processing). He was taken to Karad hospital on 11/03/2022 at 9.30 a.m. and upon examination, was declared dead by the Doctor on duty. Cause of death was due to 'hemorrhagic shock due to multiple contusions as a result of hard blunt impacts'. The death of the deceased Jagdeep was unnatural hence an enquiry into the unnatural death was conducted and in the course of the enquiry statements of the witnesses were recorded. It was revealed that on 10/03/2021 between 05.00 to 08.00 p.m. the deceased was assaulted by the Applicant and others under suspicion that he had misappropriated sugarcane from the factory. Hence, Bharat Patil, PSI lodged the FIR against the Applicant and other accused. Pursuant to which the aforesaid crime came to be registered. The Applicant was arrested on 12/03/2021. The bail application filed by the Applicant came to be rejected by the Sessions Court. Hence, the present application.

3. Mr. Ashok Mundargi, learned senior counsel for the Applicant submits that the co-accused against whom similar allegations have been made have been released on bail by this Court as well as by

the Supreme Court. He submits that Ashwini Thorat and her brother Vikram Patil have stated in statement under Section 161 of Cr.P.C. that the Applicant had threatened them by pointing revolver and that they had also seen the Applicant and others assaulting the deceased - Jagdeep by kicks and blows. He submits that the statement of Ashwini was not recorded in the course of the enquiry and that Vikram Patil had not stated such facts. He submits that since the other co-accused have been released on bail, the Applicant is also entitled for bail on the ground of parity.

4. Mr. A.A. Palkar, learned APP for the Respondent -State and Mr. Sanjeev Kadam, learned counsel representing the Intervenor submit that offence is of grievous nature. The role attributed to the Applicant is not similar to the role attributed to the other co-accused, who have been released on bail and as such the Applicant is not entitled for bail on the ground of parity.

5. I have perused the records and considered the submissions advanced by the learned counsel for the respective parties.

6. The records reveal that the Applicant and other co-accused

Sangram Ghorpade suspected that the deceased had misappropriated sugarcane from the factory. It is the case of the prosecution that the Applicant and other co-accused had assaulted him with kicks and blows with fiber sticks, sugar cane sticks, etc.

7. The statements of Vijay Jaisingh Patil and Sagar Phuke prima facie indicate that they had not witnessed the incident in question. Vikram Patil claims that he was informed that his brother-in-law Jagdeep was being assaulted. He went to the factory with Ashwini, wife of the deceased but they were not allowed to enter the sugarcane factory. He forcibly went to the cabin of the co-accused Sangram Ghorpade and questioned him about the deceased. He claims that the co-accused Sangram sent them to the adjoining cabin and that they saw Jagdeep lying on the floor. The injured Jagdeep informed them that he was assaulted by the Applicant and the other co-accused by kicks, blows, sticks, etc.

8. These witnesses have further stated that they took the deceased to the Cabin of the Applicant and that the Applicant and Sangram and others once again assaulted the deceased with kicks and blows. They have claimed that the Applicant pointed a revolver at

them and threatened to cause their death.

9. As noted above, the statement of Ashwini was not recorded in the course of the enquiry. Statement of Vikram Patil, which was recorded in the course of the enquiry does not indicate that he had witnessed the Applicant and others assaulting the deceased and that taken deceased to the cabin of the Applicant and that the Applicant and others assaulted the deceased by kicks and blows in his presence. The statement also does not indicate that the Applicant has threatened him by pointing a revolver.

10. Thus, prima facie the statement that Applicant and others had assaulted the deceased in presence of this witness and that the Applicant had threatened him by pointing a revolver, appears to be an improvement. It is to be noted that Sangram Ghorpade, against whom similar accusations have been levelled has been granted bail by Hon'ble Supreme Court. Other co-accused have also been released on bail by this Court. Considering the above facts and circumstances, in my considered view the Applicant is entitled for bail on the ground of parity.

11. Hence, the application is allowed on the following terms and conditions:-

- (i) The Applicant in connection with C.R. No.80 of 2021 registered with Waduj Police Station, Satara, is ordered to be released on bail on furnishing P.R. bonds in the sum of Rs.25,000/- with one or two sureties in the like amount;
- (ii) The Applicant shall attend the Waduj police Station, Satara on first Saturday of every month between 10.00 a.m. to 11.00 a.m. till framing of charge;
- (iii) The Applicant shall inform his latest place of residence and mobile contact number immediately after being released and/or change of residence or mobile details, if any, from time to time to the Court seized of the matter and to the Investigating Officer of the concerned police station;
- (iv) The Applicant to cooperate with the conduct of the trial and attend the trial court on all dates, unless exempted;
- (v) The Applicant shall not tamper with the evidence or attempt to influence or contact the complainant,

witnesses or any person concerned with the case.

12. The application stands disposed of.

13. In view of above, interim application does not survive and hence stands disposed of.

(SMT. ANUJA PRABHUDESSAI, J.)