

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

CRIMINAL BAIL APPLICATION NO.4365 OF 2021

Pravin Janardhan Patil

... Applicant

Vs.

The State of Maharashtra

... Respondent

Mr.Aniket U. Nikam i/b Mr.Amit Icham for the Applicant.

Mr.S.R. Agarkar, APP for the Respondent –State.

Mr.Sanjay R. Chavan, Head Constable No.258 Kavathemahankal Police Station, District-Sangli.

CORAM : C.V. BHADANG, J.

**DATE : 1 FEBRUARY 2022
(Through Video Conferencing)**

P.C.

. By this Application, the Applicant (Accused No.10) is seeking bail. The Applicant along with others has been charge-sheeted for the offence punishable under Section 302, 323, 324, 326, 143, 147, 148, 149, 504 and 506 of the Indian Penal Code, Section 123(2) of Representation of Peoples Act and under Section 37(1)(3) read with 135 of the Maharashtra Police Act arising out of Crime No.98 of 2021 of Kavathemahankal Police Station, District-Sangli.

2. The prosecution case is that on 4 March 2021 there was an election to be held for the post of Deputy Sarpanch of

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Village Borgiaon. Mr.Ganpati Namdev Patil and Mr.Sujit Vasant Patil were the rival candidates at the said election. It is specific prosecution case that the Applicant and co-accused were under impression that the deceased Pandurang Kale would vote in favour of Ganpati Namdev Patil and not Sujit Vasant Patil and on account of this they had formed an unlawful assembly armed with weapons such as iron rod, hockey sticks, wooden sticks and assaulted Pandurang Kale at about 1.45 p.m. in Granpanchayat Office at Boregaon, resulting into his death.

3. On the basis of the complaint lodged by the brother of the deceased the offence came to be registered and after investigation a charge-sheet is filed.

4. I have heard the learned counsel for the Applicant and the learned Additional Public Prosecutor. With the assistance of the learned counsel for the parties. I have gone through the record.

5. It is submitted by the learned counsel for the Applicant that several co-accused have been released on bail either by the Sessions Court or by this Court and parity would apply. The learned counsel has taken me through the role attributed to the Applicant and the co-accused in order to submit that even according to the prosecution the accused had formed an

unlawful assembly and therefore every member of the unlawful assembly would be equally responsible. Thus according to the learned counsel the Applicant cannot be denied parity on account of any individual role. Secondly it is submitted that there is a joint discovery allegedly made by the Applicant and his father Janardhan Patil, under section 27 of the Evidence Act, thereby producing the wooden stick and an iron rod. It is submitted that such a joint recovery is not contemplated by section 27 of the Evidence Act. Reliance in this regard is placed on the decision of this Court in case of *Govind Krishna Jadhav V/s. State of Maharashtra*.¹

6. It is submitted that the role attributed to the Applicant is an assault by iron rod on the back of the deceased and on the head of the witness Ganpati Namdev Patil. It is submitted that the clothes worn by the Applicant at the time of the incident do not show any blood stains. The learned counsel has pointed out that the transcription of the CCTV footage (Page 375) does not show that the Applicant was carrying any weapon or an iron rod. Lastly, it is submitted that the injury certificate of Ganpati Patil (page 496) shows only simple injuries.

7. The learned Additional Public Prosecutor states that the incident has happened on account of the political rivalry between two groups in which apart from 40 accused who have

1 1980 Mh.L.J. 72

been charge-sheeted 20 to 25 other persons were involved. It is submitted that the incident resulted into death of Pandurang Kale and injury to Ganpati Patil. It is submitted that the Applicant is attributed with a specific role of an assault by an iron rod which is a dangerous weapon and therefore his case is distinguishable from the accused who have been granted bail. Therefore, in the submission of the learned Additional Public Prosecutor the claim of parity cannot be accepted.

8. I have carefully considered the rival circumstances and the submissions made. *Prima facie* it appears that the incident was an outcome of a political rivalry at the time of the election to the post of Deputy Sarpanch of the Grampanchayat of Village Boregaon in which there were several persons who had gathered in the Grampanchayat Office. The assault on the deceased is alleged by several persons holding different weapons of assault such as hockey sticks, wooden sticks and iron rod insofar as a present Applicant is concerned. It is necessary to note that several accused including Janardhan Patil, Nitin Patil and Sujit Patil and others have been granted regular bail either by this Court or by the Sessions Court. Some of the accused have been granted anticipatory bail by the Sessions Court.

9. The learned counsel for the Applicant is right that normally in such a case the responsibility and the liability of all

the members of the unlawful assembly would stand at par, notwithstanding the difference in the individual role inasmuch as the incident is alleged to have happened in prosecution of the common object of such unlawful assembly. In the relevant part of the transcription of the CCTV footage (page 378) the Applicant is only shown to be proceeding towards the spot without any weapon. Further more the clothes worn by the Applicant are not bearing any blood stains. Lastly, the discovery of the iron rod and the wooden stick is a joint recovery by the present Applicant and his father Janardhan Patil which is not permissible as held by the Division Bench of this Court.

10. In such circumstances, I find that the Applicant can be released on bail on conditions. Hence, the following order.

ORDER

- (i) Applicant, Pravin Janardhan Patil shall be released on bail in C.R. No.98 of 2021 registered with Kavthemahankal Police Station, District-Sangli, on executing a P.R. Bond in the sum of Rs.25,000/- with one or more solvent sureties in the like amount.
- (ii) The Applicant shall not tamper with the prosecution evidence.
- (iii) The Applicant shall attend the Court proceedings regularly.
- (iv) Bail before the Sessions Court.

C.V. BHADANG, J.