

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO.3980 OF 2021
WITH
INTERIM APPLICATION NO.3125 OF 2021

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Hiraman Supdu Padalkar

..Applicant

Versus

The State of Maharashtra

..Respondent

Mr. A. P. Mundargi, Senior Advocate i/by Varun Thokal, for the Applicant.

Ms. P. N. Dabholkar, APP for the Respondent No.1/State.

Mr. N. R. Bubna, for the Intervenor.

CORAM : NITIN W. SAMBRE, J.

DATE : 27th SEPTEMBER, 2022

PC.

1. Applicant is seeking regular bail in Crime No.357 of 2020 registered with Jaykheda Police Station for the offence punishable under Sections 302, 143, 147, 148, 149, 504, 506, 324 of IPC.

2. Applicant was arrested on 30th September, 2020. Learned senior counsel Mr. A. P. Mundargi on instructions submits that there are no criminal antecedents against the applicant.

3. Complainant alleged that the applicant formed an unlawful assembly along with 9 to 10 co-accused and assaulted his father with iron rod and knife. As such, offence under Section 302

of IPC.

4. Mr. A. P. Mundargi has invited attention of this Court to another FIR No.358 of 2020. In the said offence, accused No.6/Mahadu Padalkar has died of violent attack.

5. According to Mr. A. P. Mundargi, considering the role attributed, the injuries suffered by deceased as could be noticed from the *post-mortem* report, the release of another nine accused on bail prompts this Court also release of the applicant.

6. APP assisted by Mr. N. R. Bubna would oppose the prayer, as according to them the provisions of Section 149 of IPC is invoked, as all the eleven accused have formed an unlawful assembly with common object. Mr. N. R. Bubna would urge that the accused persons with pre-determined object armed with deadly weapons have committed offence in front of the house of complainant. According to him, if applicant is released, there is likelihood of disturbance of law and order.

7. I have appreciated the submissions.q1

8. The cause of death cited in the *post-mortem* report is because of the stab injury and not the injury caused by rod on the back of the deceased. Rather the injuries reflected in column 17 of the *post-mortem* report does not speak of any injury suffered on his back. The fact remains that the other similarly placed co-accused

are already released on bail.

9. As the medical evidence brought on record is not in tune with what has been stated in the FIR, false implication cannot be ruled out, as all the applicant's family members are arrayed as accused.

10. That being so, applicant is directed to be released on bail on furnishing PR bond of Rs.25,000/- with one or more sureties in the like amount.

11. Applicant shall neither influence the witnesses in any manner nor tamper with the evidence.

12. Applicant shall attend the Investigating Officer as and when directed.

13. Till the charge is framed, applicant shall remain outside the jurisdiction of concerned Police Station.

14. The application as such stands disposed of.

15. In view of disposal of Bail Application, Interim Application also stands disposed.

[NITIN W. SAMBRE, J.]