

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

BAIL APPLICATION NO.198 OF 2023

1. Chatrapati Annasaheb Nirwal
2. Suraj Chatrapati Nirwal ...Applicants

Versus

The State of Maharashtra ...Respondent

...
Advocate for Applicants : Mr. V.D. Sapkal, Senior Counsel i/b Mr. S.R.
Sapkal

APP for Respondent/State : Mr. S.B. Narwade

...

CORAM : S.G. MEHARE, J.

DATED : FEBRUARY 14, 2023

PER COURT:-

1. Heard learned counsel for the applicants and learned APP for the State.
2. The applicant no.1 – Chatrapati was the step-brother of the deceased. It has been alleged that the accused have mercilessly beaten the deceased. When he was seriously injured, applicant no.1 - Chatrapati called the vehicle. The driver of the said vehicle reached on the spot of the incident that time, applicant no.2 - Suraj and three others were restraining applicant no.1 from taking the deceased to the hospital. One eye witness Kalindabai allegedly witness the incident but she kept silent since the deceased died. She was the relative of the deceased. She was the best witness to narrate the incident first in

time to the son of the deceased. However, the first informant had come with a case that it was the applicant- Chatrapati who narrated the incident that he and other accused assaulted the deceased as he was demanding money for the land.

3. After registering the crime, the blood stain clothes of applicant no.1 – Chatrapati have been seized. The weapons allegedly used in the crime have also been seized. The cause of death was shock due to multiple injuries.

4. It has been vehemently argued for the applicants by the learned senior counsel that the eye witness appears to be planted. She is not a natural witness. The conduct of the applicant – Chatrapati is material. He himself called the vehicle to take the deceased to the hospital. While carrying the deceased to the hospital, the blood was stuck to his clothes. Hence, it cannot be said that it is an outcome of the assault. Similarly situated co-accused have been released on bail. From the conduct of the applicants, it is clear that it was not an intentional act. The deceased was continuously harassing them over the land. He has also argued that the prosecution has a parallel story of road traffic accident. The owner of the vehicle used to carry the deceased has narrated the different story as he heard from his driver. Considering the material in toto, he would state that it is difficult to ascertain who assaulted the deceased. Therefore, bail may be granted.

5. Learned APP has strongly opposed the application. He would submit that all the accused have mercilessly beaten the deceased. The deceased has suffered in all twelve injuries that caused his death. A false information as regards the road traffic accident was given to the hospital. Considering the spot of the incident, the road accident was improbable. He also stated that there was eye witness to the incident. When the driver of the vehicle reached on the spot, the applicants were present. Applicant – Suraj was holding a stick in his hand. The circumstances are also corroborated with medical evidence. The offence is serious. The applicant - Chatrapati had flee away from the police custody and on the very same day, the police had re-apprehend him in the evening. This shows his conduct. The applicants are not entitled to bail.

6. Perused the papers. It appears from the material placed on record that the incident happened in a field. The driver of the vehicle in which the deceased was carried, saw the deceased lying by the road side. He has suffered various injuries. The applicant – Suraj and others were not allowing him to take the deceased to the hospital. The applicants were standing near the deceased. The blood stain on the clothes of applicant – Chatrapati may be possible as he might have lifted the deceased to take him to the hospital. However, his post apprehension conduct is very serious. He flee away from the police custody and all day he was disappearing. In that period, the

possibility of disappearing material evidence at his hands cannot be ruled out. The sole purpose of the detention of the accused during the course of investigation is to avoid the disappearance of the evidence at the hands of the accused and if it is so, that may be a ground to refuse the bail. Therefore, this Court is of the view that considering his conduct, applicant – Chatrapati may not be granted bail. However, considering the role attributed to applicant – Suraj and other co-accused who have been granted bail, the parity may be extended to him. Hence, the following order :

ORDER

- (i) Bail Application is partly allowed.
- (ii) Bail Application of Applicant No.1 – Chatrapati Annasaheb Nirwal stands rejected.
- (iii) Applicant No.2, Suraj Chatrapati Nirwal, be released on bail on executing P.B. and S.B. of Rs.50,000/- (Rupees fifty thousand) with one solvent surety in the like amount in connection with Crime No.284 of 2022, registered with Manwat Police Station, District Parbhani for the offence punishable under Section 302, 326, 324, 323, 504, 506, 143, 147, 148, 149, 201, 120B of the Indian Penal Code, on the conditions that he shall not tamper with the prosecution witnesses.

(5)

(iv) He shall attend the trial on each effective date.

(S.G. MEHARE, J.)

Mujaheed//