

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

927 BAIL APPLICATION NO.399 OF 2023

SANTOSH MANIK GAVHANE
VERSUS
THE STATE OF MAHARASHTRA

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Advocate for Applicant : Mr. Narwade Narayan B.
APP for Respondent-State : Mr. S. B. Narwade.

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CORAM : S. G. MEHARE, J.
DATE : 14.03.2023

PER COURT :-

1. Heard the learned counsel for the applicant and the learned APP for the respondent-State.
2. It has been alleged against the applicant that he along with his father assaulted the deceased. The FIR is very specific that the applicant assaulted the deceased with stone on head. The first information is the eye witness to the incident. The Post Mortem report supports the contention of the first informant. The FIR was promptly lodged.
3. Learned counsel for the applicant would argue that there is contradiction between the witnesses as regards the presence and the role attributed to the applicant. He further argued that he has instructions that at the time of the incident, the

applicant was not present on the spot of the incident. However, since there was a dispute over the land, he has been falsely implicated in the crime. There are no antecedents to his discredit.

4. Per contra, learned APP would argue that the eye witness is the first informant. The deceased died of the head injury. The head injuries may be possible by the stone. The witnesses who have been allegedly pointed as eye witnesses are not the eye witnesses. They came subsequent to the incident after hearing the noise. They have specifically stated what they have seen after the incident. One of the witness saw the applicant fleeing away from the spot of the incident. Except the bare words, the applicant has nothing to show that he was not present on the spot of the incident. The first informant is now widow. She may be threatened. The offence is serious. Hence, the applicant does not deserve bail.

5. Perused the papers. The specific allegations have been levelled against the applicant that he assaulted the deceased with stone on head. The first informant was the eye witness to the incident. The FIR was promptly registered. The so called witnesses as has been pointed out by the applicant were not the eye witnesses. They came on the spot subsequent to the

incident after hearing the noise of the first informant. The Post Mortem Report supports the contentions of the first informant. The offence is serious. Considering the material against the applicant, the gravity of the offence and the cause for the dispute, the Court does not inclined to grant the bail. Hence, the bail application stands dismissed.

(S. G. MEHARE, J.)

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vmk/-