

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO.822 OF 2023

MACCHINDRA MANAJI JADHAV
VERSUS
THE STATE OF MAHARASHTRA

...
Advocate for Applicant : Mr. Sandesh V. Hange
APP for Respondent : Mr. K. S. Patil
...

CORAM : S. G. MEHARE, J.

DATE : 24-07-2023

PER COURT :-

1. Heard the learned counsel for the applicant and the learned A.P.P. for the respondent/State.
2. The applicant is seeking bail in C.R.No.165 of 2022 registered with Ghargaon Police Station, Taluka Sangamner, District Ahmednagar, for the offences punishable under Sections 302, 307, 326, 324, 323, 504, 506, 427 read with Section 34 of the Indian Penal Code.
3. The applicant is the son-in-law of the first informant and grandson-in-law of the deceased. It has been alleged that the applicant was ill-treated the daughter of the first informant. Hence, she was residing with her cousin brother. A day before the incident, the brother-in-law, nephew and other relatives of the

applicant went to the house of cousin of the wife of the applicant. That time, they were explained. However, in the intervening night of the next day, the accused/applicant found present there. He being the son-in-law was well identified. He along with other co-accused assaulted his father-in-law, mother-in-law, grandfather-in-law and other relatives by shock-ups. The deceased grandfather sustained the head injury and died after some days.

4. The learned counsel for the applicant would submit that there is variance in the statements of the first informant under Section 161 and 164 of the Code of Criminal Procedure. There were discrepancies in the statements, which raises a doubt about the role attributed to the applicant. The statements of the other witnesses are also not consistent. Considering the statement of another injured Eknath Gangaram Kale, it reveals that he was confused about the role attributed to each accused. The co-accused, who has been granted bail, has allegedly assaulted the grandfather-in-law. The other injured has the simple injuries. There were no injury marks on the person of the first informant, indicating that there was a possibility of causing of such injuries by shock-ups. He would argue that since the other co-accused Sonya @ Rajender who has been allegedly assaulted as per the statement of one of the witnesses, has been granted bail. These are the mitigating circumstances in favour of the applicant to be released on bail. The informant is exaggerating allegations against

the applicant. The applicant has responsibility to maintain his children. There are no antecedents to his discredit. He is languishing in jail since June-2022. Considering the facts and circumstances of the case and also the evidence collected against him, he may be released on bail.

5. Per contra, the learned A.P.P. would point out that there were no material discrepancies in the statements of the witnesses. *Prima facie* material is available against the applicant that he assaulted not only the deceased but also the first informant, father in law and brother in law. He was so aggressive. The role attributed to the applicant and co-accused Sonya can easily be bifurcated from the statements of the witnesses. The statements of the witnesses are clear that the applicant has played active role and assaulted the deceased with a shock-up. Though the deceased did not die suddenly, but cause of death is the injuries suffered to him in the assault. Considering the grievance against the applicant, the possibility of tampering the prosecution witnesses by pressurizing his wife, cannot be ruled out. The offence is grave. Hence, he may not be granted bail.

6. There appears a substance in the arguments of the learned A.P.P. and it is supported by the material collected by the Investigating Officer. The role of co-accused Sonya is not on par with the present applicant. There is no material discrepancy in the

statements of the witnesses. *Prima facie* material is against the accused. He has played active role in committing the crime. He was so aggressive in assaulting many persons. The weapons used in the crime have also been recovered. The possibility of tampering with the prosecution witnesses cannot be ruled out. In view of that matter, the applicant has no case for bail. Hence, the application stands dismissed.

(S. G. MEHARE)
JUDGE

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