

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

BAIL APPLICATION NO.1358 OF 2023

GANESH PRALHAD BHOSLE
VERSUS
THE STATE OF MAHARASHTRA

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Advocate for Applicant : Mr. Bhosle Abhaysinh K.
APP for Respondent : Mr. K. S Patil

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CORAM : S. G. CHAPALGAONKAR, J.
Dated: August 25, 2023

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PER COURT :-

1. The applicant seeks regular bail under section 439 of the Criminal Procedure Code in connection with crime no. 355 of 2022 registered with Pimpalgaon Hareshwar Police Station, District Jalgaon for the offence p/u/s 302, 326, 324, 323 And 504 of IPC. The investigation was set in motion on information given by Kiran Bhosale alleging that on 27/11/2022 at about 3 p.m. the dispute arose between his father and uncle on account of grazing of cattles. Ganesh, who is son of uncle of the informant inflicted a blow of wooden log on head of the informant's father. Similarly, uncle of the informant inflicted a blow of stick on face of the father of the informant. The son of the uncle i.e Ganesh has assaulted the informant using the stick. It is further alleged that because of the head injury, father of the informant i.e Punamchand Bhosale died. The applicant Ganesh was arrested in pursuance of the offence punishable under Section 302, 326, 324, 323 and 504 of the IPC. He was remanded to the Police custody

aaa/-

From 29/11/2022 to 1/12/2022. During his custody incriminating article wooden log has been recovered.

2. On completion of the investigation , charge-sheet is filed against the applicant and other two accused. The applicant moved Sessions court for grant of bail. His application came to be rejected vide order dated 15/7/2023.

3. Mr. Bhosale , learned advocate appearing for the applicant would submit that the investigation in the crime is over. Charge-sheet is filed. Co-accused are already enlarged on Bail. He would submit that the incident occurred on account of the dispute over grazing of the cattles. The applicant is agriculturalist having no criminal antecedents. He would submit that perusal of the spot panchanama would show that no marks of the scuffle even blood could not be detected on the spot. Therefore, he urged to release the applicant on Bail.

4. Mr. Patil, learned APP vehemently opposed the prayer. He would submit that the deceased had suffered head injury on account of the blow inflicted by the applicant. MLC certificate shows corresponding injuries. He would further submit that Post-mortem report indicates death on account of internal bleeding. There are two eye witnesses to the incident. The version as given in the FIR, statement of eye witnesses is corroborated by the medical evidence. As such he urged to reject the application.

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5. Having considered the submission advanced, apparently, the FIR is promptly lodged. The applicant Ganesh alleged to have inflicted the blow of wooden log on the head of deceased Punamchand. The statement of two eye witnesses supports the case of the prosecution. Postmortem report shows that the deceased died on account of head injury. There is recovery of wooden log at the instance of the applicant. Although, the co-accused Pralhad is released on bail, his role is limited. Further his age is also taken into account. Principles of parity cannot be invoked for considering the present application. The informant and the applicant are resident of same village. The release of the applicant is likely to create hurdles in smooth prosecution. In that view of matter, there is sufficient triable evidence against the applicant, who is charged for offence punishable under section 302 of IPC. No case is made out for grant of bail. Hence the application is rejected.

(S. G. CHAPALGAONKAR, J.)

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