

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

952 BAIL APPLICATION NO.1563 OF 2023

LAHU JANARDHAN THORAT
VERSUS
THE STATE OF MAHARASHTRA

...
Advocate for Applicant : Mr. P. P. More
APP for the Respondent/s – State : Mrs. P. V. Diggikar
...

CORAM : S. G. CHAPALGAONAKAR,J.

DATE : 21.09.2023

PER COURT :-

1. The applicant seeks regular bail in connection with Crime No. 182 of 2023 registered with AUSA Police Station District Latur, for the offences punishable under Sections 302, 307, 323, 504 read with Section 34 of the Indian Penal Code.
2. Investigation was set in motion on the basis of the information given by Smt. Punam Vyankat Patil, who alleges that the first wife of her husband is residing separately since the year 2007. She has two children out of such wedlock. The dispute regarding distribution of the property is pending between husband of the informant and his first wife Kiskinda. It is alleged that on 26.04.2023 the accused persons arrived in the field at gut no. 125, the accused Kiskinda and her daughter Jayashri was accompanied by son in-law Lahu Janardhan Thorat (present applicant). The accused Kiskinda Patil raised quarrel

with husband of the informant. She was asking him as to why they are not allowed the ploughing in the field. It is alleged that accused Jayashri and the present applicant caught hold hands of deceased (her husband) and the accused Kiskinda hit him using a stone. Accused Jayashri inflicted injury on back of the deceased using the sickle. It is alleged that the accused persons further assaulted deceased using fist and kick blows. It is alleged that on account of the aforesaid injuries, the deceased lost the life. On the basis of aforesaid information, the offence was registered against the accused persons. The applicant is arrested on 29.04.2023. His prayer for grant of bail has been rejected by the Sessions Court vide order dated 25.08.2023. Hence, the present application.

3. Mr. P. P. More, learned Advocate appearing for the applicant would submit that there is civil dispute between informant and the accused persons. He would further point out that the allegations in the F.I.R. are mainly against accused No.1 -Kiskinda and accused No. 2 -Manisha. The applicant is alleged to have caught hold the hands of the deceased. There is no allegation against him that he has actually participated in the assault. He would further submit that the investigation in the matter is completed. Charge-sheet is filed. Further detention of the applicant may not necessary.

4. Mrs. Diggikar, learned APP vehemently opposes the prayer for grant of the bail. She would submit that the F.I.R. itself shows the presence of the applicant on the spot, so also his actual participation. She would point out that the applicant had caught hold the hands of the deceased and facilitated other accused persons to assault on him. Therefore, she opposes the prayer for grant of bail.

5. Having considered submissions advanced, it is apparent that there is civil dispute between accused Nos. 1 and 2 and the deceased as well as informant on account of distribution of the property. The F.I.R. stipulates that all the three accused persons had been to the field and they were asking the deceased as to why he is not permitting the ploughing of the land. There is specific allegation that accused Nos. 1 and 2 have actual raised assault against the deceased. The allegation against the applicant is limited to the extent that he had caught hold the hands of deceased. Considering these averments in the F.I.R., it is evident that the applicant has not caused any injury to the deceased, although Section 34 of the Indian Penal Code is invoked, the issue as to common intention will have to be determined during the course of the trial.

6. Going by the averments, a limited role is attributed against the applicant, who is behind the bar for about 5 months. In view of completion of the investigation and filing of the charge-sheet, further

detention of the applicant would not be necessary. Hence, case is made out for grant of bail. Hence following order :

ORDER

- (i) Bail Application is allowed.
- (ii) The applicant, Lahu Janardhan Thorat be released on bail in connection with Crime No. 182 of 2023 registered with AUSA Police Station District Latur, for the offence punishable under Sections 302, 307, 323, 504 read with Section 34 of the Indian Penal Code, on executing P.B. and S.B. of Rs. 50,000/- (Rs. Fifty Thousand only) each on following conditions :-
 - a) The applicant shall not tamper with the prosecution evidence in any manner.
 - b) The applicant shall not enter in village Khutegaon, Taluka AUSA, District Latur.
 - c) The applicant shall attend each and every effective date before the trial Court.
- (iii) Bail Application is disposed of.

(S. G. CHAPALGAONKAR)
JUDGE

shp/-