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

BAIL APPLICATION NO.1916 OF 2022

AMOL EKNATH AADE AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA

Mr. S. J. Salunke, Advocate for applicants;
Mr. S. P. Sonpawale, A.P.P. for respondent/State

CORAM : S. G. MEHARE, J.

DATE : 2nd JANUARY, 2023

PC.

1. Heard the learned counsel for the applicants and the learned A.P.P. for the respondent/State.
2. In an unfortunate incident of teaching a lesson to the deceased for consuming excessive liquor, the son and the wife of the deceased assaulted the deceased and he died. Hence, they have been arraigned as accused for the offence of murder.
3. Learned counsel for the applicants referred to various statements and argued that the deceased was addicted to liquor. He was harassing the applicants. Hence, to teach him a lesson in a quarrel, they assaulted him. However, they never had an intention to kill him. He also referred to the first information report and pointed out that the applicants themselves took the deceased to the hospital

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and took his care till his death. The intention in this case is absolutely missing. The investigation has been completed. There is nothing to tamper with the prosecution witnesses. The applicants are languishing in jail since July, 2022. He prays to allow the application.

4. The learned A.P.P. has strongly opposed the application contending that there are eyewitnesses. They are consistent on the facts of assault. The witnesses also stated that when the applicants were assaulting the deceased, they were saying that they would kill him. Such a conduct is a proof of intention. The witnesses are also consistent in statements under Section 164 of the Code of Criminal Procedure. The deceased was 50 years old. He had suffered serious injuries and died of the head injury. He also referred to the *post mortem* report and other papers. He prayed to dismiss the application.

5. No doubt, the offence registered against the applicants is serious, punishable with death or imprisonment for life. However, the first information report and the statements of the witnesses, who are allegedly eyewitnesses to the incident reveal that the deceased was addicted to liquor. Therefore, the applicants were trying to teach him a lesson, but they were assaulting him. The post incident conduct of the applicants is also material. They themselves took the deceased to

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the hospital and treated him till his death. The deceased died after eight days of his admission to the hospital. Considering the papers placed before the Court along with the chargesheet, there are grounds to believe that it was an incident of teaching a lesson to liquor addicted person. The papers also reveal that the trial court would have to find out the intention of the applicants. The investigation has been completed. Taking the overall view of the matter, the Court is of the opinion that it would be inappropriate to detain the applicants behind bar. The application deserves to be allowed. Hence, the following order :-

- i) Application is allowed.
- ii) Applicant Nos. (1) Amol Eknath Aade and (2) Savitabai Eknath Aade, be released on bail, on furnishing PB and SB of Rs.50,000/- each, with one solvent surety of like amount, in C.R.No.166 of 2022 registered with Police Station Himayatnagar, District Nanded, for the offence punishable under Sections 302 and 323 read with Section 34 of the Indian Penal Code, on the condition not to tamper with the prosecution witnesses.

(S. G. MEHARE, J.)

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