

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

928 BAIL APPLICATION NO.1995 OF 2022
WITH APPLN/75/2023 IN BA/1995/2022

1. MANOJ TUKARAM MAHAJAN
2. SURESH BHAGWAN MAHAJAN
3. PRAVIN @ ANIL SURESH MAHAJAN
VERSUS
THE STATE OF MAHARASHTRA

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Advocate for Applicants : Mr. Barhate Yuvraj R.
APP for Respondent-State : Mr. S. P. Deshmukh.
Advocate for Complainant to assist APP : Mr. Deshmukh B. S.

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CORAM : S. G. MEHARE, J.
DATE : 10.01.2023

PER COURT :-

1. Heard the learned counsel for the applicants, learned APP for the respondent-State and learned counsel for the complainant.

2. On the day of the incident, all the accused were in the field. Thereafter, the injured and his family members reached in the said field. They went there to cultivate the field for one year, which was given to them orally by the mother-in-law of the complainant. When they reached on the spot, accused Tukaram asked them not to enter the field. He started abusing them. Then, the deceased went to explain Tukaram. Then,

they assaulted deceased with kicks and blows on his stomach and private part. He was taken to the hospital. However, he died.

3. Learned counsel for the applicants would submit that most of the alleged eye-witnesses are interested witnesses. They are the family members of the deceased. Insofar as, the independent witnesses are concerned, they are hearsay. One N.C. was registered on the report of applicant Manoj against the deceased and his family members. The incident happened at the spur of moment. The applicants never had an intention to commit murder. It was just a quarrel. The applicants were also threatened to evict from the joint share. The cause of death is "Death due to multiple contusion over groin region". The applicants are languishing behind bar for a long time. The investigation has been completed. Nothing is to be recovered from the applicants. Hence, they may be released on bail.

4. Learned APP and learned counsel for the complainant have opposed the application. They would refer to the eye witnesses and the statements of witnesses under Section 164 of the Cr.P.C. Recovery of a stick from the applicant Pravin @ Anil. They also refer to the cause of death and would submit that it was an intentional act knowing well that kicking a

person on private part may cause the death. The offence is serious. The applicants may tamper with the prosecution witnesses. The deceased came from Aurangabad and he has to join his job. However, due to the intentional act, he has lost his life. The applicants may not be granted bail.

5. It appears that the applicants were in the field when the deceased and his family members reached there. The applicants opposed the deceased and his family members and asked them not to enter the field. Then the incident happened. There appears substance in the argument of the learned counsel for the applicants that the incident happened at the spur of moment. The deceased died of the injuries over right groin region. The other injuries were simple. It would be inappropriate to draw the inference at this juncture that it was an intentional act. The investigation has been completed. There are no antecedents to the discredit of the applicants. It seems to be a dispute over the land. No purpose would serve by keeping the applicants behind bar. However, certain conditions may be imposed. Hence, the following order :

ORDER

- (i) Bail Application is allowed.

- (ii) Applicant No.1. **MANOJ TUKARAM MAHAJAN,**
2. SURESH BHAGWAN MAHAJAN and 3. PRAVIN
@ ANIL SURESH MAHAJAN be released on bail on
furnishing P.B. and S.B. of Rs.50,000/- (Rupees
Fifty Thousand only) each with one solvent surety
of the like amount each, in Crime No.82 of 2022,
registered by Police Station Erandol, District
Jalgaon, for the offence punishable under Sections
302, 324, 323, 143, 147, 149, 504, 506 of the IPC,
on the following conditions :
- (a) The applicants shall not tamper with the
prosecution witnesses.
 - (b) They shall not contact the witnesses in any
manner till their evidence is recorded in the
Court.
 - (c) They shall attend the trial on every effect
hearing.
- (iii) Criminal application No.75 of 2023 to assist the
learned APP is allowed.

(S. G. MEHARE, J.)

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