

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

BAIL APPLICATION NO.1853 OF 2023

1. Dhondiba @ Dhondu s/ Sandu Bawaskar,
Age: 70 years, Occu.: Agri,
R/o: Tondapur, Tq. Jamner,
Dist. Jalgaon.
2. Shevantabai w/o Dhondiba @ Dhondu Bawaskar,
Age: 65 years, Occu.: Agri,
R/o: Tondapur, Tq. Jamner,
Dist. Jalgaon. ..Applicants

Versus

The State of Maharashtra
Through the Police Officer,
Fardapur Police Station,
Tq. Soygaon, Dist. Aurangabad. ..Respondent

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Mr. Vijay S. Wakale, Advocate for the Applicants.
Mr. S. B. Narwade, APP for Respondents-State.

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**CORAM : S. G. CHAPALGAONKAR, J.
DATED : 25th OCTOBER, 2023.**

PER COURT:-

1. The applicants seek regular bail in connection with Crime No.138/2023 registered with Fardapur Police Station, Dist. Aurangabad for the offences punishable under Sections 302, 323, 506 r/w 34 of the Indian Penal Code.

2. The investigation was set in motion on the basis of the complaint given by Shamim Shaha Kasam Shaha, who states that on 16.09.2023 while he was working in his field, deceased Chandrakalabai rushed towards his shed and told him that her brother and parents are intending to kill her. The informant

asked her to hide herself in Goat shed. Accordingly, she entered in Goat shed. However, the accused persons namely Krishna and Shivaji rushed to the spot and gave fist blows to the informant and asked him whereabouts of the Chandrakalabai. Then they entered in the Goat shed and assaulted her using axe. It is further alleged that the present applicants, who are parents of Chandrakalabai also followed to the spot. They were instigating other accused persons to kill Chandrakalabai. On the basis of the aforesaid information, Crime No.138/2023 came to be registered with Fardapur Police Station, Dist. Aurangabad for the offences punishable under Sections 302, 323, 506 r/w 34 of the Indian Penal Code. The applicants have been arrested on 16/17.09.2023. Since then, they are behind the bar. Their prayer for grant of bail has been rejected by the Sessions Court on the ground that the investigation is in progress.

3. The learned Advocate appearing for the applicants would submit that going by the contents of the FIR no specific role is attributed against the applicants. Accused nos.1 and 2 i.e. Krishna and Shivaji are attributed role in actual assault. Allegation of causing any assault or injury to the victim are absent against the applicants. He would further submit that the applicants are old aged persons and falsely implicated in the aforesaid crime. Hence, he urges to release the applicants on bail.

4. The learned APP strongly opposes the prayer for grant of bail. He would submit that the applicants were instigators in commission of offence and they were asking other accused persons to kill Chandrakalabai.

5. Having considered the submissions advanced, apparently the applicants are not attributed with any role in

actual assault on the deceased. It is alleged that the applicants also followed accused nos.1 and 2 and they instigated them to kill Chandrakalabai. *Prima facie* record depicts that neither the applicants were holding any weapon in their hands nor they have participated in actual assault. The applicants are parents of the victim. They are aged about 65 to 70 years. They are behind the bar since 17.09.2023. Although, investigation is still in progress, considering the role attributed against the applicants and their age, further detention would not be necessary. Hence, case is made out for grant of bail. Hence, the following order:

ORDER

- (i) Bail Application is allowed.
- (ii) The applicants, Dhondiba @ Dhondu s/o Sandu Bawaskar and Shevantabai w/o Dhondiba @ Dhondu Bawaskar be released on bail in Crime No.138/2023 registered with Fardapur Police Station, Dist. Aurangabad for the offences punishable under Sections 302, 323, 506 r/w 34 of the Indian Penal Code on furnishing P.B. and S.B. of Rs.50,000/- (Rs.Fifty Thousand only) each on following condition:
 - a. The applicants shall not tamper with the prosecution evidence in any manner.
 - b. The applicants shall co-operate with the investigation.
- (iii) Application is disposed of.

(S. G. CHAPALGAONKAR)
JUDGE