

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

**BAIL APPLICATION NO.1812 OF 2023
WITH APPLN/3848/2023 IN BA/1812/2023**

NAMDEV AMBADAS BADE
VERSUS
THE STATE OF MAHARASHTRA

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Mr. Ramesh R. Imale, Advocate for the Applicant.
Mr. K. S. Patil, APP for Respondents-State.
Mr. Adinath B. Jagtap, Advocate for the Complainant.

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**CORAM : S. G. CHAPALGAONKAR, J.
DATED : 02nd NOVEMBER, 2023.**

PER COURT:-

1. The applicant seeks regular bail in connection with Crime No.532 of 2023 registered with Pathardi Police Station, District Ahmednagar for the offences punishable under sections 302, 307, 324 r/w 34 and Section 201 of the Indian Penal Code.

2. The investigation was set in motion on the basis of the information given by Kavita Sharad Ghuge. She alleges that on 28.05.2023 she was sleeping at courtyard of their house. At about 02.00 am she heard screaming of her mother. At the same time, she saw the applicant/accused ran towards her and inflicted a blow of an axe on her right leg, then flee away from the spot. The nephew of the applicant namely Atul Phunde also followed him. When she rushed inside home followed by her father, she found that her mother Latabai and sister Sarika had received injury of assault on their head. Her mother Latabai disclosed that the applicant Namdev inflicted a blow of axe on her head. The accused Atul Phunde hit axe on the head of her sister Sarika. As such, both of them suffered bleeding injuries. Thereafter, both the

injured were taken to the hospital. In spite of the medical treatment, Sarika succumbed to the injuries. In pursuance of the aforesaid complaint, Crime No.532/2023 came to be registered with Pathardi Police Station, Dist. Ahmednagar. The applicant has been arrested on 29.05.2023 in pursuance of the aforesaid crime. Since then, he is behind the bar. The investigation progressed and charge-sheet is filed.

3. Mr. Imale, learned Advocate appearing for the applicant would submit that the applicant has been falsely implicated in the aforesaid crime. He would submit that, although the informant specifically alleges that the applicant Namdev has given blow of an axe on the head of Latabai, such allegation are absent in statement of Latabai recorded under Section 161 of the Criminal Procedure Code. He would submit that the applicant is attributed to have caused injury to the informant and her mother Latabai. As per medical evidence both of them have suffered simple injuries. The applicant is not attributed role in causing injury to the deceased Sarika. He would, therefore, urge to release the applicant on bail.

4. The learned APP as well as learned Advocate appearing for the complainant vehemently oppose the prayer. They would submit that the incident is witnessed by three persons. The applicant was seen on the spot along with an axe in his hand. There was previous civil dispute. The applicant had planned murder and attacked at the night time. He was holding deadly weapon in his hand. The intention to kill can be inferred from the nature of the attack that has been raised by the applicant. The learned Advocate appearing for the complainant submits that Section 34 of the Indian Penal Code is invoked in the present case. The applicant had animus in his mind against the

family members of the informant. The motive of attack is implicit.

5. Having considered the submissions advanced, *prima facie* there is allegation against the applicant that he inflicted blow of an axe on right leg of the complainant, so also on head of the Latabai. Perusal of the injury certificate in respect of the informant as well as Latabai shows that both of them have suffered simple injuries. The injury suffered by the informant is attributed to hard and blunt object. The injuries suffered by Latabai is attributed to sharp aged object, however, the nature is simple.

6. Perusal of the statement of the Latabai recorded under Section 161 of the Criminal Procedure Code shows that when she received injury, the applicant was in her room with an axe in his hand. She states that another accused was also seen in the room alongwith an axe. She does not state in clear terms that applicant is author of injury suffered by her. Pertinently, there is no role attributed against applicant in causing injury to the deceased Sarika. The specific allegation regarding inflicting the injury on head of the Sarika is against co-accused. The applicant is behind the bar since 29.05.2023. The investigation in the matter is complete. The charge-sheet does not contain any incriminating material like recovery of an axe or blood stained clothes at the instance of the applicant. In that view of the matter, case is made out for grant of bail. Hence, the following order:

ORDER

- (i) Bail Application is allowed.
- (ii) The applicant, Namdev Ambadas Bade be released on bail

in Crime No.532 of 2023 registered with Pathardi Police Station, District Ahmednagar for the offences punishable under sections 302, 307, 324 r/w 34 and Section 201 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 applicant shall not tamper with the prosecution evidence in any manner.
- b. The applicant shall not enter village Yeli, Tq. Pathardi, Dist. Ahmednagar till conclusion of the trial.

(iii) Application is disposed of.

(iv) In view of disposal of the Bail Application, Criminal Application No.3848/2023 is allowed and accordingly disposed of.

(S. G. CHAPALGAONKAR)
JUDGE