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

BAIL APPLICATION NO.2020 OF 2023

**RAGA KHEMA VALVI AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA**

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Advocate for Applicants :Mr. Savale Amit S
APP for Respondents: Mrs. P.J. Bharad.

CORAM : S.G. CHAPALGAONKAR, J.

DATE : 8 DECEMBER, 2023

ORDER :-

1. The applicants are seeking regular bail in connection with Crime No. 140 of 2023 dated 12.06.2023 registered with Dhadgaon Police Station, Dist. Nandurbar for the offences punishable under Sections 302, 143, 147, 148, 149 of IPC r/w. Section 37(1)(3) & 135 of Maharashtra Police Act.

2. The investigation was set in motion on the basis of FIR given by one Aasha Ruma Tadwi, who alleges that her maternal uncle Bharat Khema Valvi, died last year due to fall on stone. However, his son Anil falsely implicated her father in offence of murder. However, her father had been released from jail. Enraged by his release from jail, the accused persons were threatening to kill him and they were often raising quarrels. It is alleged that on 12.6.2023, when informant alongwith his father were in the field of Narsing Patle, accused Lalsingh, Shivaji, Dama, Raga, Sima, Malsing and Anil Valvi arrived on the spot. They were

holding wooden logs and sticks and iron rods in their hand. Accused Lalsingh inflicted blow of iron rod on head of the informant's father. Shivaji hit him by Bamboo Stick. When her father was lying on the surface, accused Dama broken the hand of her father. The applicants/accused named Raga, Sima and Anil gave fists and kick blows on stomach and back of her father. Resultantly, her father suffered fatal injuries. On the basis of aforesaid information Crime No. 140 of 2023 came to be registered with police station Dhadgaon, Dist Nandurbar. On 15.5.2023 the applicant Nos. 1 and 2 have been arrested. The applicant No.3 came to be arrested on 13.6.2023. since then they are behind bars. Their prayer for grant of bail has been rejected vide order dated 31st October, 2023, passed by the learned Sessions Judge, Shahada.

3. Mr. Savale, learned advocate for the applicant would submit that the applicants have been falsely implicated in aforesaid crime. He would point out from the contents of the FIR that a limited role is attributed against the applicants that they assaulted deceased by kick blows on his stomach and back. He would submit that the applicants are behind bars for more than 5 months. The investigation in the matter is complete and charge sheet is filed. He, therefore, urges to release the applicants on bail.

4. The learned APP, however, opposes the prayer for a grant of bail. She would submit that all the accused persons were sharing common intention being members of an unlawful assembly and committed the offence. All the members of the unlawful assembly are responsible for murder. Deceased had been brutally beaten assaulted leading to his death. The names of the applicants are specifically

mentioned in the FIR. He would further point out that there is recovery of bamboo stick from accused Raga and Sima which supports the case of prosecution regarding their participation in the commission of offence.

5. Having considered the submissions advanced, apparently, there are allegations against the applicants that they had participated in commission of offence. Even their names are specified in the FIR. Perusal of the contents of the FIR depicts that deceased suffered injury on his head due to assault by accused Lalsingh using iron rod. Further allegations are against accused Shivaji that he hit the deceased using bamboo stick on his head. The accused Rama is alleged to have broken hand of the deceased. The allegations against the applicants are restricted to the assault by kick blows while deceased was lying on the floor. Although it is submitted that there is recovery of bamboo sticks at the instance of applicant Nos. 1 and 2, contents of FIR nowhere attribute that they were holding sticks in their hand or that they have used the same in commission of offence. Whether the applicants were members of unlawful assembly, whether assembly was unlawful from its inception, whether role played by the applicants can jointly be considered with role of other accused persons, are questions to be decided in trial. Considering the limited role attributed against the applicants and the fact that they are behind bars for more than 5 months after detention, further detention of the applicants need not be continued. Hence, a case is made out for grant of bail.

O R D E R

- (i) The application is allowed.
- (ii) Applicant Nos. (1) Raga Khema Valvi (2) Sima Khema Valvi and

(3) Anil Bharat Valvi be released on bail on furnishing PB. and S.B. of Rs. 50,000/- (rupees fifty thousand) each, with one solvent surety of the like amount, in connection with Crime No. 140 of 2023 dated 12.06.2023 registered with Dhadgaon Police Station, Dist. Nandurbar for the offences punishable under Sections 302, 143, 147, 148, 149 of IPC r/w. Section 37(1)(3) & 135 of Maharashtra Police Act, on the following conditions :-

[a] The applicants shall not tamper with the evidence.

[b] The applicants shall not indulge in any criminal activity.

[iii] The application stands disposed of.

[S.G. CHAPALGAONKAR]
JUDGE

grt/-