

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

BAIL APPLICATION NO. 753 OF 2022

Suryakant Shankar Koli

... Applicant

v/s.

The State of Maharashtra

.... Respondent

Mr. Ritesh Thobde a/w. Mr. Sagar Tambe and

Mr. Changdev Shingade for the Applicant.

Mr. R.M. Pethe, APP for the State.

Mr. Koli, PI, Akkalkot North Police Station, present.

CORAM: SMT. ANUJA PRABHUDESSAI, J.

DATED : 21st APRIL, 2023.

P. C. :-

. This is an Application under section 439 of Cr.PC. filed by the aforesaid Applicant, who is arrested in C.R.No.275/2021 registered with Akkalkot North Police Station, Solapur Rural for offences punishable under sections 143, 147, 148, 302, 323, 324, 326, 427, 504, 506 r/w. 149 of the Indian Penal Code and sections 3, 25 of Arms Act.

2. Heard learned counsel for the Applicant and learned APP for the State. I have perused the records and considered the submissions advanced by the learned counsel for the respective parties.

3. The aforesaid crime was registered pursuant to the FIR dated 13/06/2021 lodged by Siddaram Hanmant Patil. A perusal of the FIR prima facie reveals that on 12/06/2021, during afternoon hours, there was altercation between the first informant and the Applicant and their family members. It is stated that in the course of the altercation and quarrel between both the groups i.e., the first informant and his family members and the Applicant and others, they started assaulting each other by kicks and blows. The first informant has stated that the Applicant herein went to his house and brought an axe and the co-accused Chandrakant inflicted a blow of axe on the head of Vishwanath. It is also alleged that the co-accused Chandrakant Masanna also inflicted blows of axe on said Vishwanath. Said Vishwanath expired as a result of the injuries sustained in the incident whereas the first informant sustained injuries. Hence, FIR came to be lodged against the Applicant and others for committing murder of Vishwanath and causing injuries to the first informant.

4. The records prima facie reveals that Chandrakant had also lodged cross-FIR against the first informant and others which is registered as C.R.No.276/2021. The first informant in the said crime has alleged that they too were assaulted by axe and other weapons. The records

also indicate that Dhondiba had sustained head injury which is stated to be grievous in nature.

5. Whether the first informant and his family members were the aggressors or whether the Applicant and others had initiated the fight, is a matter of trial. The records prima facie indicate that it was a case of free-fight between two groups. The Applicant herein was not involved in inflicting the fatal injury. In fact, the Applicant had not assaulted either the deceased or the other witnesses. Moreover, the Applicant is a permanent resident of Akkalkot and there is no possibility of the Applicant absconding or thwarting the course of justice.

6. Considering the above facts and circumstances, in my considered view, this is a fit case to exercise discretion under section 439 of Cr.P.C. in favour of the Applicant. Hence, the Application is allowed on the following terms and conditions :-

- (i) The Applicant who is arrested in C.R.No.275/2021 registered with Akkalkot North Police Station, Solapur Rural, is ordered to be released on bail, on furnishing P.R. bonds in the sum of Rs.30,000/- with one or two solvent sureties in

the like amount ;

- (ii) The Applicant shall report to Akkalkot North Police Station, Solapur Rural once in two months on the 1st day of the month until further orders;
- (iii) The Applicant shall not interfere with the first informant and his family members or the other witnesses and shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case in any manner ;
- (iv) The Applicant shall keep the Trial Court informed of his current address and mobile contact number and/or change of residence or mobile details, if any, from time to time.
- (v) The Applicant shall co-operate with the conduct of the trial and attend the trial Court on all dates, unless exempted.

7. Bail Application stands disposed of in above terms.

(SMT. ANUJA PRABHUDESSAI, J.)