

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO. 2798 OF 2022**

Raju Bhaiyappa Kale

...Applicant

Versus

The State of Maharashtra

...Respondent

.....

Ms Mallika Pujari i/b Ms Kavita Shinde for the Applicant.

Mr. P.H. Gaikwad Patil, APP for the State.

Mr. Subir Sarkar for the Complainant.

Mr. Baswraj M. Koshti, Umadi Police Station, Present.

.....

CORAM : N.R. BORKAR, J.

DATED : 7 JANUARY 2023

P.C. :-

This is an application under Section 439 of the Code of Criminal Procedure for bail.

2. The applicant came to be arrested in Crime No. 44 of 2022 registered at Umadi police station for the offences punishable under Sections 302, 324, 323, 504, 506 read with 34 of the Indian Penal Code.

3. The applicant is accused No. 6 in the aforesaid crime. It is the case of the prosecution that there was some financial dispute between the deceased and accused Nos.1 to 3. It is alleged that due to said financial dispute on 20 February 2022, the accused Nos.1 to 3 took him to hotel

Rajmata at Village Tikodi and assaulted him there by stick. It is alleged that after assaulting the deceased they left the deceased at the said hotel.

4. The accused No.4 is the owner of the said hotel. He asked the deceased to pay hotel bill. It is alleged that dispute arose between the deceased and the accused No.4 on account of payment of hotel bill. It is alleged that during the said dispute, the present applicant, who was working as driver with accused No.4, had caught hold of the deceased and the accused No.5 assaulted the deceased by stick due to which he became unconscious. The deceased was then put in the Bolero car and on the next day the dead body of the deceased was found in the agricultural field of one Deva Kare, near Tambe Vasti, Tikodi Village, Tal : Jath, District : Sangli.

5. I have heard the learned counsel for the applicant and the learned APP for the respondent-State and the learned appointed counsel for respondent No. 2.

6. Perusal of the FIR lodged by the son of the deceased shows that initially accused No. 1 to 3 assaulted the deceased by stick. I have perused the post mortem report. There are in all five injuries out of which four injuries are abrasion and one injury is contusion. According to the eye-witness to the second incident the deceased was under the influence of liquor and was abusing everybody. He even refused to pay hotel bill. The alleged assault by the present applicant and accused No.5, therefore, does not appear to be premeditated. Considering the facts and circumstances of

the case, I am inclined to release the applicant on bail. Hence, the following order is passed:

- (i) Application is allowed.
- (ii) The applicant be released on bail in Crime No. 44 of 2022 registered at Umadi police station for the offences punishable under Sections 302, 324, 323, 504, 506 read with 34 of the Indian Penal Code on furnishing PR bond in the sum of Rs. 25,000/- with one or two sureties in the like amount.
- (iii) The applicant shall attend the concerned police station once in a month i.e., on first Saturday between 11.00 a.m. to 2.00 p.m. till conclusion of trial.

(N.R. BORKAR, J.)