



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

BAIL APPLICATION NO.77 OF 2023

1. UDAY KUMAR MOHAN SAHANI
2. LAKHINDER SITARAM SAHNI @ SAHANI ..APPLICANTS
VS.
THE STATE OF MAHARASHTRA ..RESPONDENT

Mr. Sushil Upadhyay, for the Applicants.
Mr. P. H. Gaikwad, APP for the State.
PSI-Mr. Raut, Malvani Police Station present.

CORAM : M. S. KARNIK, J.

DATE : OCTOBER 11, 2023

P.C. :

- 1.** Heard learned counsel for the applicant and learned APP for the State.
- 2.** This is an application for bail in respect of the offence punishable under sections 302, 323, 324, 201, 108, 109, 114, 141, 143, 144, 147, 148, 149, 504, 506(2) of the Indian Penal Code (hereafter 'IPC' for short) registered on 05/10/2021 vide C.R. No.1299 of 2021 with Malvani Police Station, Mumbai.
- 3.** There are in all 8 accused. The applicants are the accused nos. 1 and 2. The applicants were arrested on 06/10/2021.
- 4.** The date of the incident is 26/09/2021. The incident

happened around 2:00 a.m. in the night between 25/09/2021 and 26/09/2021. The accused are 8 in number were sleeping in the godown where marble was stored. There was a commotion as a thief was found near the godown. The accused caught hold of the said thief. Applicant no. 1 who is accused no.1 with a wooden plank assaulted the thief (deceased) on his head and gave one blow on his head. Accused no. 2 was seen assaulting the deceased with the company's rubber belt. Co-accused Sakal Sahani is alleged to have assaulted with a wooden rod. Other accused were assaulting deceased with fist & kick blows. The cause of death is due to head injury with blunt trauma to chest with multiple contusions on body. The incident is not premeditated. Prima facie it does not appear that the intention was to kill. The applicants are incarcerated since 06/10/2021 and now in custody almost for 2 years. The trial has not yet commenced and therefore there is every likelihood of delay in conclusion of trial.

5. Apart from opposing the bail on merits, learned APP submitted that the applicants are residents of Bihar and there is every likelihood of the applicants absconding. It is further submitted by learned APP that there are 4 accused who are absconding till today. There is recovery of the wooden plank and rubber belt at the instance of the

present applicants. In the present facts and circumstances, considering that the applicants are incarcerated for more than 2 years, since the investigation is complete, charge-sheet has been filed, I am inclined to enlarge the applicants on bail. There are no criminal antecedents reported against the applicant. The apprehension expressed by learned APP can be allayed by imposing stringent conditions on the applicants.

ORDER

- (a) The application is allowed.
- (b) The applicant no.1- Uday Kumar Mohan Sahani and applicant no. 2- Lakhinder Sitaram Sahni @ Sahani in connection with C.R. No.1299 of 2021 registered with Malvani police station shall be released on bail on their furnishing PR. Bond of Rs.25,000/- each with one or more local sureties in the like amount.
- (c) The applicants shall attend the investigating officer of Malvani police station once in a month every first Monday of the month between 11.00 a.m. and 1.00 p.m.
- (d) The applicants shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing the facts to Court or any Police Officer. The applicants shall not tamper with evidence.

(e) On being released on bail, the applicants shall furnish their contact number and residential address to the investigating officer and shall keep him updated, in case there is any change.

(f) The applicants shall not leave the State of Maharashtra without permission of the trial Court.

(g) The applicants shall not enter the jurisdiction of Malvani police station till the conclusion of trial.

(h) The applicants shall not tamper with the witnesses.

(i) The applicants shall attend the trial regularly. The applicants shall co-operate with the trial Court and shall not seek unnecessary adjournments.

6. The application is disposed of.

(M. S. KARNIK, J.)