

VRJ

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

BAIL APPLICATION NO.1073 OF 2023

Pundlik Narayan Raut & Anr.

... Applicants

V/s.

The State of Maharashtra

... Respondent

VAIBHAV
RAMESH
JADHAV
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Mr. Aniket Vagal with Mr. Kunal Pednekar with Mr.
Divesh Mehani for the applicants.

Ms. Veera shinde, APP for the respondent/State.

CORAM : AMIT BORKAR, J.

DATED : JULY 18, 2023

P.C.:

1. At the outset learned advocate for the applicant, on instructions, seeks permission to withdraw the bail application as against applicant No.1 with liberty to apply after completion of two years imprisonment.
2. Permission, as prayed for, is granted.
3. The bail application is dismissed as withdrawn as against applicant No.1 with liberty to apply after completion of two years imprisonment.
4. This is an application under section 439 of the Criminal Procedure Code, 1973 in connection with C.R. No.57 of 2022 for offences punishable under sections 302, 324 read with section 34

of the Indian Penal Code, 1860.

5. The prosecution case in short is as under:

The deceased lodged a complaint on 13th May 2022, at about 06:00 p.m. alleging that when he went for Haldi Program at the house of Eknath Navsu Borse, while entering at Bondar-mal village applicant No.1 and other two to three persons demanded amount of Rs.10,000/- from him. On refusal to pay the amount, he was assaulted with wooden stick on his head, hand, back and leg. The applicant No.1 brought him to rural hospital and admitted. Remaining two to three persons ran away from the spot. The informant succumbed to injuries on 15th May 2022.

6. The applicants were arrested on 15th May 2022.

7. On perusal of the charge sheet, it appears that the informant (deceased) named applicant No.1 in the report. Prima facie, it appears that the informant (deceased) was knowing the applicant No.1 and his family. The informant has not named applicant No.2 in his report which was filed immediately after the incident. Memorandum under section 27 shows recovery of one wooden stick. The cause of death mentioned in the postmortem report appears to be head injury with Polytrauma. Though the statement of Kaushalya attributes role to all four accused, the informant has not named Kaushalya in the report. Ultimately, exact role of applicant No.2 needs to be ascertained during trial after granting prosecution opportunity to lead evidence and the accused is granted opportunity to cross examine. Applicant No.2 has no criminal antecedents to his discredit. Applicant No.2 is in jail for

more than one year. Therefore, applicant No.2 has made out a case for relief under section 439 of the Criminal Procedure Code, 1973. Hence, following order:

- a) The applicant No.2 - Mahesh Pundlik Raut be released on bail in connection with C.R. No.57 of 2022 for offences punishable under sections 302, 324 read with section 34 of the Indian Penal Code, 1860 on furnishing PR Bond in the sum of Rs.25,000/-, along with one or two sureties in the like amount.
 - b) The applicant No.2 shall mark his presence before the concerned police station on first Saturday of each month between 11:00 a.m. to 02:00 p.m.
 - c) The applicant shall remain present before the trial Court on every date unless exempted specifically by the trial Court.
8. The bail application is disposed of in above terms.

(AMIT BORKAR, J.)