



PMB

21 BA 415-23.doc

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

BAIL APPLICATION NO.415 of 2023

RAMBADAN BARSAN YADAV ..APPLICANT
VS.
THE STATE OF MAHARASHTRA ..RESPONDENT

**WITH
INTERIM APPLICATION NO.1334 OF 2023
IN
BAIL APPLICATION NO.415 of 2023**

CHANDRADEV JAGANNATH YADAV ..APPLICANT

IN THE MATTER BETWEEN

RAMBADAN BARSAN YADAV ..APPLICANT
VS.
THE STATE OF MAHARASHTRA ..RESPONDENT

Mr. Ganesh Gole i/b. Mr. Ateet Shirodkar for the applicant.
Ms. Veera Shinde, APP for the State.
Mr. Ajit M. Savagave for intervener.
PI M. S. Kumbhar, Vartak Nagar Police Station.

**CORAM : M. S. KARNIK, J.
DATE : AUGUST 25, 2023.**

P.C. :

1. Heard learned counsel for the applicant, learned APP for the State and learned counsel for intervener through the learned APP.

2. This is an application for bail in respect of the offence punishable under Sections 302, 326, 323, 504, 506(2) read with 34 of the Indian Penal Code (hereafter 'IPC' for short) registered vide C.R. No.I-264 of 2022 with Vartak Nagar Police Station, Thane.

3. The FIR was registered on 28.06.2022. The applicant is the accused no.2. The applicant was arrested on 29.06.2022 and now in custody for 14 months. The applicant is 70 years of age. It is alleged that on 26.06.2022 during the early hours at about 4.00 a.m. the complainant woke up from the sleep after hearing hue and cries and came out of his house. The complainant after coming out of the house heard abuses and went near the house of the applicant. The door was locked from inside and the abuses were heard from the inside of the house. After the complainant went into the house of the applicant it was noticed that the legs and hands of the deceased Sunil Yadhav i.e. the brother of the complainant were tied by a rope and the co-accused persons along with the applicant were assaulting the deceased with an iron rod, iron stick

and bamboo. The cause of death is due to head injury.

4. It is the contention of learned counsel for the applicant that the deceased had entered the house of the applicant at 4.00 a.m. as he was following and harassing the applicant's grand-daughter Jyoti with whom he was trying to be friendly. It is further the case of the prosecution that the complainant questioned the reason for the assault on his brother when it was stated by the accused No.1 that the deceased was having love affair with his daughter and therefore they assaulted the deceased and further asked the complainant to take the deceased to his house. The victim was taken to the hospital where he died after three days.

5. There is no recovery from the applicant. Learned APP relied upon the video footage where it is seen that the accused No.1 and an unidentified person assaulted the deceased. Having regard to the role of the applicant and the fact that he is 70 years old, further that the applicant is in custody for almost 14 months with the possibility of the trial commencing and concluding any time soon seems remote,

the applicant can be enlarged on bail. The investigation is complete. The charge-sheet has been filed. There are no criminal antecedents reported against the applicant. In the facts and circumstances of the present case, I am inclined to release the applicant on bail. Hence, the following order :-

ORDER

- (a) The application is allowed.
- (b) The applicant-Rambadan Barsan Yadav in connection with C.R. No.I-264 of 2022 registered with Vartak Nagar Police Station, Thane shall be released on bail on his furnishing P.R. Bond of Rs.25,000/- with one or more sureties in the like amount.
- (c) The applicant shall attend the Investigating Officer of the Vartak Nagar Police Station, Thane once in a month every first Monday of the month between 11.00 a.m. and 1.00 p.m.
- (d) The applicant 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 applicant shall not tamper with evidence.
- (e) On being released on bail, the applicant shall

furnish his contact number and residential address to the Investigating Officer and shall keep him updated, in case there is any change.

(f) The applicant shall not leave Thane district till trial is concluded without prior permission of the trial Court.

(g) The applicant to handover the passport, if any, to the Investigating Officer.

6. The application is disposed of.

7. The interim application is also disposed of.

(M. S. KARNIK, J.)