

Nikita

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

BAIL APPLICATION NO.1797 OF 2023

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Ganesh Baburao Nalawade ... Applicant

V/s.

The State of Maharashtra ... Respondent

Mr. Kuldeep Patil, i/b Ms. Saili N. Dhuru, for the applicant.

Mr. Amit A. Palkar, APP for the respondent/State.

CORAM : AMIT BORKAR, J.

DATED : AUGUST 8, 2023

PC.:

1. This is an application under Section 439 of the Criminal Procedure Code, 1973 seeking bail in relation to C.R. No.10 of 2023, registered at Mangaon Police Station, for offences punishable u/s 302 read with 34 of the Indian Penal Code, 1860.

2. The case of the prosecution in short is as under:

The deceased was the father in law of the complainant. It is alleged that the complainant married the daughter on the deceased in the year 2004. It is further alleged that as the deceased was habitually into drinking thus, he would often visit “Vile Adhivasiwadi: for having liquor.

3. It is further alleged that on 17/01/2022 at around 1.30 pm.

The deceased along with the present applicant and the co accused who belonged to the same village, were sitting near a bonafire. It is further alleged that as the log of wood which was used for the bonfire was about the finish off thus, the applicant told the deceased to bring some more wood. It is further alleged that the deceased blatantly refused to go and fetch some wood and told the applicant to use the wood which was available.

4. It is further alleged that the applicant told the co-accused to throw some part of the wood which was burning in the bonfire on the body of the deceased. It is further alleged that thus, the co-accused threw some burning wood on the leg of the deceased. It is further alleged that as the leg of the deceased burned thus, he hit the co-accused and angrily told him to go away. It is further alleged that thereafter, the co-accused went away, the deceased came back home as he suffered a burn injury while the present applicant continued to enjoy the bonafire.

5. It is further alleged that thereafter, the co-accused came back with a scythe while the present applicant was sitting near the bonafire. It is further alleged that the co-accused kicked on the closed door of the house of the deceased and with the use of the scythe opened the said door. It is further alleged that however, the few villagers calmed and convinced the co-accused and further left him at his home. It is further alleged that the said incident was informed to the complainant by his sister in law namely Miss. Shital Pawar.

6. It is further alleged that on 18.01.2023, at around 8.30 pm.

The sister in law of the complainant telephonically called his wife and informed her that the deceased had not returned home. It is further alleged that she also informed her that the villagers were mumbling that the deceased was assaulted by the co-accused. It is further alleged that thereafter, the complainant hurriedly came to the village of the deceased and joined the group of people who were searching for the deceased.

7. It is further alleged that the present applicant and the co-accused were also in the group who were searching for the deceased person. It is further alleged that however, as they were unable to find the deceased person, thus, they all return to their home, It is further alleged that thereafter, again after some time, the complainant along with the villagers went to search for the deceased. It is further alleged that as they were on their way, one of the villager namely Mr. Sanjay Atmaram Nalawade informed the complainant that on 18/01/2023 i.e. today, the said villager along with the deceased, the applicant, the co-accused and two other villagers namely Alkesh Jayram Mhaske and Ganesh Ramchandra More @ Gharu had gone to “Adivasiwadi” for having liquor.

8. It is further alleged that he further informed the complainant that in order to take revenge for the incident taken place on 17/01/2023, the applicant and the co-accused assaulted the deceased. It is further alleged that thereafter, the complainant found the deceased in bushes and saw that he had sustained injuries on his hands, legs and near his eyes. It is further alleged that thereafter, the deceased was taken to hospital for medical treatment however, he was declared dead on admission.

9. The applicant was arrested on 19th January 2023, . On perusal of charge-sheet, it appears that there are two eye witnesses. Both the witnesses have attributed role of assault to accused No.1. Only role attributed to the applicant is to the effect that accused No.1 made signs indicating that the applicant was present along with the accused No.1 during assault. The applicant has no criminal antecedents to his discredit. Considering the stage of trial, it is unlikely that the trial will be completed in near future. The applicant has made out a case for bail. Hence, following order:

- a) The bail application is allowed;
- b) The applicant be released on bail in relation to C.R. No.10 of 2023, registered at Mangaon Police Station, for offences punishable u/s 302 read with 34 of the Indian Penal Code, 1860, on furnishing P.R. Bond in the amount of Rs.25,000/- along with one or two sureties in the like amount;
- c) The applicant shall mark his presence before the concerned police station on first Saturday of every month between 11.00 a.m. to 2.00 p.m.;
- d) The applicant shall remain present before the Trial Court on each and every date unless specifically exempted by the Court;
- e) The applicant shall not directly or indirectly make any inducement, threat or promise to any witness acquainted with the facts of the case so as to dissuade him from disclosing such facts to the court;

f) The applicant shall not obstruct or hamper the police investigation and not to play mischief with the evidence collected or yet to be collected by the police;

g) The applicant shall, at the time of execution of the bond, furnish his address and mobile number to the investigating officer, and the court concerned, and shall not change the residence till the final disposal of the case;

10. The bail application stands disposed of in above terms. No costs.

(AMIT BORKAR, J.)