



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

914 BAIL APPLICATION NO. 455 OF 2024

1. Haribhau Mahadev Bharaskar
2. Mahesh Rajendra Avhad
3. Sunny Laxman Adhagale

..APPLICANTS

-VERSUS-

The State of Maharashtra

..RESPONDENT

...
Advocate for Applicants : Mr. Salunke Sudarshan J.
APP for Respondent/State : Mrs.Dipali S. Jape

...
WITH
CRIMINAL APPLICATION NO. 1432 OF 2024
IN BA/455/2024

DANESH SHAHADEV BARASKAR
VERSUS
HARIBHAU MAHADEV BHARASKAR AND OTHER

...
Advocate for Applicant : Mr. Andhale Sandip Ramnath
APP for Respondent/State : Mrs.Dipali S. Jape

...
CORAM : SANJAY A. DESHMUKH, J.
DATED : 2nd APRIL, 2024.

PER COURT :-

1. Criminal Application no. 1432 of 2024 is for assisting to the prosecution.
2. For the reasons stated in the application the application is allowed.
3. The applicants in bail application no.455 of 2024 is seeking

bail under section 439 of the Criminal Procedure Code, 1973 (for short, "Cr.P.C."). The applicants have been arrested in connection with crime No.0090 of 2024 registered with Police Station, Shevgaon, Dist. Ahmednagar, for the offences punishable under sections 302, 307, 143, 147, 148, 149, 324, 323, 504, 506 of the Indian Penal Code.

4. It is averred in the report by the informant that the incident took place on 03.04.2024. The applicants and other accused, who were released on bail assaulted the father of the applicants and family members by an axe, iron rod, iron pipes and sticks. Quarrel took place on account of agricultural land. It is alleged that co-accused Shivaji assaulted father of the informant by leg on his chest. That time, applicant no.1 – Haribhau assaulted Akas by an axe on his head. When applicant Haribhau started to assault the father of the informant, his brother Maruti tried to catch hold that assault and he also sustained injuries to his right hand. Co-accused Amar, Bhaskar was also assaulted with the help of fighter on the face of this informant and his brother Eknath. Other accused also assaulted by iron rod etc., to the family members of the informant. Father of the informant become unconscious and he was lying there. The applicants and other co-accused ran away with their articles. The father of the informant was admitted in Bade hospital, Shevgaon. Doctor examined him and found that he is no more. Report was

immediately lodged.

5. The learned advocate for the applicants submitted that the father of the informant died by heart-attack. Practical investigation is over. Quarrel took place between both the sides and report is lodged by the applicants against the informant and his family members on the same day. The learned advocate for the applicants submitted that the applicants are falsely implicated in the crime. Trial will take long period. He lastly prayed to allow the application.

6. The learned APP for the respondent/State strongly opposed the application and submitted that there is evidence of injured eye witnesses. The applicants' overt act is very serious. She lastly prayed to reject the application.

7. The learned advocate for assisting to the prosecution strongly opposed the application and submitted that the applicants are involved in the serious crime of murder for which the life imprisonment and death penalty can be awarded. He further pointed out that the applicants also assaulted the informant and other witnesses. Therefore, the section 307 is invoked against the applicants. He pointed out the injury certificates of injured. Further he pointed out that the investigation is not completed. The statements of the witnesses are also pointed out. It is lastly prayed to reject the application.

8. Perused the papers of investigation. Statements of the

witnesses are recorded. The postmortem report is collected. Injury certificates are filed on record. Thus the practical investigation is completed. It is surprising to note that the postmortem report of deceased Shahadev Baraskar shows that there is no any external or internal injuries sustained to him. Column no.20(g) i.e. Heart with weight, shows that "Right side of heart engorged. Cardiomegaly present. Patch of infarction present over anterolateral aspect of heart. Clot present within right heart cavity". About stomach and its contents, it is noted that no erosion. Congestion present. Opinion as to cause of death is reserved. Thus, the submission of the learned advocate for the applicants that father of informant died by heart attack and for that the applicants can not be held liable is acceptable.

9. As far as invocation of section 307 of the IPC is concerned, injury certificates of the injured witnesses and informant shows that all the injuries sustained to them are simple in nature. Some injuries are also sustained to the applicants and the co-accused. Considering all these aspects and fact that the applicants have roots in the society, trial will take long period, the applicants will not flee away from the trial, the application deserves to be allowed on the principle that bail is rule and jail is exception on certain stringent condition. Hence, the following order.

O R D E R

- I. Application is allowed.
- II. The applicants in connection with crime No.0090 of 2024 registered with Police Station, Shevgaon, Dist. Ahmednagar, for the offences punishable under sections 302, 307, 143, 147, 148, 149, 324, 323, 504, 506 of the Indian Penal Code be released on bail on furnishing personal bond of Rs.25,000/- each with one surety of the like amount by each of them on following conditions:-
 - a) The applicants shall not pressurize the prosecution witnesses and shall not tamper with the prosecution evidence in any manner.
 - b) The applicants shall not enter in village Shevgaon, till filing of the charge-sheet.
 - c) The applicants shall not indulge in such activities hence forth.
- III. If any breach of the above conditions is noticed by the trial Court, the trial Court is at liberty to cancel the bail granted to these applicants without further reference to this Court.

(SANJAY A. DESHMUKH, J.)