

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO. 1338 OF 2024
WITH
CRIMINAL APPLICATION NO. 3442 OF 2024
IN BA/1338/2024

1. Salmabee W/o Moinoddin Shaikh
2. Alfiya D/o Moinuddin Shaikh
3. Rafiya @ Soni W/o Yusuf Ali Sayyed ..Applicants

VERSUS

The State Of Maharashtra ..Respondent

...
Advocate for Applicants : Mr. Ladda Somnath G.
APP for Respondent/State : Ms. V.S. Choudhari
Advocate for Complainant : Mr. Gaurav L. Deshpande

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CORAM : S.G. MEHARE, J.

DATED : AUGUST 13, 2024

PER COURT:-

1. Heard learned counsel for the applicants, learned APP for the State and learned counsel for the complainant.
2. The applicants seek bail in Crime No.127 of 2024 registered with Kannad City Police Station, District Aurangabad for the offences punishable under Sections 302, 143, 147, 148, 149, 324, 323, 504, 506 of the Indian Penal Code.
3. It is really a bad incident wherein the son-in-law of applicant no.1 has been killed at the hands of close relative. Both parties were close relatives. They had quarrel over the matrimonial

discord. The family of the applicants were facing offence under Section 498-A of the Indian Penal Code. On the day of the incident, suddenly the quarrel took place. The deceased came there and accused no.1 assaulted him with wooden log on his head and he died. The allegations against the applicants were that they were instigating the co-accused and pelted stones.

4. Learned counsel for the applicants would submit that it was purely a family dispute. Suddenly, the quarrel took place. It was a case of a single blow. Other injuries suffered to the deceased were abrasion. A single piece of brick was recovered from the spot of the incident. The witnesses are not consistent as to the role attributed to the applicants. The applicants are languishing in jail for sufficient time. Nothing is to be recovered from them. Hence, considering the role attributed to them, they may be granted bail.

5. Learned APP and counsel for the victim/complainant have strongly opposed the application. They would submit that the applicants were member of the unlawful assembly. Mere presence of the accused in unlawful assembly is suffice to held them guilty. They would argue that the offence is serious. The applicants have played an active role in committing the crime. The deceased and the applicants were close relatives. If the applicants are granted bail, there may be another crime. Therefore to safeguard the life of the

family members of the deceased, it would not be appropriate to grant them bail.

6. It is true that it was a dispute arising out of the matrimonial discord. It seems that when the quarrel started, the deceased came to separate the quarrel and in that hit of quarrel, accused no.1 assaulted him with a wooden log on his head and he succumbed to the injuries. The role attributed to the applicants was limited as alleged of pelting stones. No weapon is recovered from them. However, the apprehension of causing disturbance of law and order and danger to the life of the family members of the deceased, can be guarded by imposing certain conditions.

7. For the above reasons, the Court is of the view that the applicants deserve bail. Hence, the following order :

ORDER

- (i) Bail Application is allowed.
- (ii) Applicants, (1) Salmabee W/o Moinoddin Shaikh, (2) Alfiya D/o Moinuddin Shaikh and (3) Rafiya @ Soni W/o Yusuf Ali Sayyed, be released on bail on furnishing P.B. and S.B. of Rs.50,000/- (Rupees Fifty Thousand only) each with one solvent surety of the like amount each in the above crime, on the conditions that;

(4)

(a) The applicants should not tamper with the prosecution witnesses and should attend the trial on each and every effective date.

(b) The applicants should stay away from Kannad City for three months from the date of their release.

(c) The applicants should avoid raising dispute with the family of the deceased in future.

(iii) Criminal Application No.3442 of 2024 stands disposed of.

(S.G. MEHARE, J.)