



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

929 CRIMINAL APPEAL NO. 821 OF 2024

BALU BANSI SHINDE

VERSUS

THE STATE OF MAHARASHTRA AND ANOTHER

....

Mr R. P. Patwardhan, Advocate h/f Mr Satej S. Jadhav, Advocate
for Appellant

Mr C. V. Bhadane, A.P.P. for Respondents/State

Mr M. B. Sandanshiv, Advocate for Respondent No.2

CORAM : R. M. JOSHI, J.

DATE : 11th October, 2024

PER COURT :-

1. Heard.
2. This appeal is for regular bail in connection with Crime No. 0020 of 2024, registered with M.I.D.C. Waluj Police Station, Dist. Aurangabad for the offences punishable under Sections 302, 307, 323 read with Section 34 of the Indian Penal Code and under Section 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.
3. The first informant is son of the deceased. First Information Report is lodged on 09/01/2024, wherein incident

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dated 04/01/2024 was disclosed. It is the contention that, he was informed by his neighbour Shri. Gaikwad about his father lying in front of Aditya Bar, Pratap Chowk. He, therefore, went to the spot. At that time, he saw that Uddhav Gholap and Arjun Phimpale were present there alongwith Ganesh Gaikwad. Arjun caught hold the informant. In his presence, Udhav and Ganesh assaulted his father. He then reported that he took his father to home. It is stated in the first information report that, his father was telling his mother about having headache on account of he being assaulted. On 08/01/2024, father of the informant was found dead.

4. Learned counsel for appellant submits that there is neither appellant is named in the first information report nor any allegation against him therein. It is submitted that, on the basis of the statement recorded by the Investigating Agency on 15/01/2024, he is implicated in crime. According to him, there is history of the case that the daughter of one of the accused eloped with brother of the informant, and on that count, there is dispute between the parties. It is his submission that, now charge-sheet is

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filed and there is no reason to indicate involvement of appellant in the offence of murder.

5. Learned APP as well as learned counsel for informant opposed the bail on the ground that, though there is no allegation against appellant in the first information report, however, it was disclosed by the deceased to the informant, which is reflected from his supplementary statement that present appellant was one of the person, who had caused assault on the deceased. It is specifically recorded in said statement that he assaulted the deceased with fist and kick blows and in the said incident, he was pushed and he fell down. He also invited attention of the Court to the P.M. Notes stating that cause of death is hemorrhage to head. He also pointed out Clause 17 of the P.M. Notes to indicate number of injuries to the deceased. Having regard to this fact, it is her contention that this is not a fit case for grant of bail.

6. Perusal of the first information report, as well as entire charge-sheet indicate that, there is no allegation against appellant, as well as other accused persons of using any weapon to cause assault on the deceased. First information report as well as

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statements of witnesses indicate that first informant claimed that there was assault with fist and kick blows. It is pertinent to note that the statements indicate that the deceased was made to drink liquor and thereafter he was assaulted. Perusal of the P.M. Notes shows that, except for abrasion, there was no apparent injuries on the person of the deceased. Cause of death is trauma to the head. The said blunt trauma is possible to be caused in a fall when he was allegedly pushed by the accused. Prima facie, considering the material on record, this Court finds substance in the contention of learned counsel for appellant that this could not be a case for charging the appellant for murder.

7. Having regard to the aforesaid facts, it is a fit case for grant of bail. Needless to state that, these observations are prima facie. Hence the following order :-

ORDER

(i) Appeal is allowed.

(ii) Appellant be released in connection with Crime No. 0020 of 2024, registered with M.I.D.C.

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Waluj Police Station, Dist. Aurangabad for the offence punishable under Sections 302, 307, 323 read with Section 34 of the Indian Penal Code and under Section 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, he be released on bail on furnishing PR Bond of Rs. 15,000/- (Rs. Fifteen Thousand only) with one surety in the like amount.

(iii) He shall attend the concerned police station once in a week.

(iv) He shall not contact the witnesses directly or indirectly.

(v) He shall not interfere with the evidence in any manner whatsoever.

(vi) He is further directed to cooperate the investigating agency for further investigation.

(v) Learned AGP to communicate this order to the concerned Investigating Officer.

(R. M. JOSHI)
Judge