



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

BAIL APPLICATION NO. 1104 OF 2024

1) DNYANESHWAR S/O. LAHU PATIL .. APPLICANTS
2) RAJENDRA S/O. LAHU PATIL
3) DIBAR @ DILIP S/O. LAHU PATIL
4) RUPESH S/O. DNYANESHWAR PATIL
5) SHIVAJI S/O. BHAGWAN PAWAR (PATIL)
@ RAHUL S/O. BHAGWAN PAWAR (PATIL)

VERSUS

THE STATE OF MAHARASHTRA .. RESPONDENT

Mr.B.R. Warma, Advocate for the applicants.
Mr.K.K. Naik, APP for the respondent/State.
Mr.P.H. Patil, Advocate for assist to APP.

CORAM : KISHORE C. SANT, J.
DATE : 06.08.2024

PC :-

01. This application is filed by original accused Nos.1 to 5 for regular bail. Applicant Nos.1 and 3 are in custody from 20.05.2024, applicant No.2 is in custody from 21.05.2024, applicant Nos. 4 is in custody from 24.05.2024 and applicant No.5 is in custody from 27.05.2024.

02. It is alleged by one Ujwalabai Prabhakar Patil, wife of deceased that her husband Prabhakar had gone on his motorcycle to some other place at 4.30 p.m. At 5.30 p.m. the informant and her

mother-in-law received information from one Raju Naik that deceased Prabhakar was lying on the road going towards agricultural field. Said Raju gave him water. On receiving this information, they immediately went to the spot and found that the deceased was lying in the field. On asking, the deceased told that the accused persons along with present applicants obstructed his working of putting murum on the road. The deceased requested the applicants to allow the dumber carrying murum to unload murum on road. It is alleged that all the accused persons beaten up the deceased with wooden sticks and logs. He again asked for water. By the time the mother of the deceased went to get water, the informant made him to take water. Within few minutes she found that the deceased was not making any movement. On taking the body to the hospital by ambulance, he was declared dead. The allegation is that there was dispute between the two parties since long and because of the dispute, the deceased was murdered.

03. The learned Advocate for the applicants argued that there is no specific role alleged against any of the accused persons. Recovery of the wooden log is at the hands of accused No.4. The investigation is practically over. The applicants are in jail for more than two months. Their further custody is not required. Though the allegations are serious,

looking to the allegations it is seen that the weapon used is only wooden log. In any way no intention can be gathered that the applicants had been to the spot with intention to commit murder because of rivalry between the parties. The deceased himself was having criminal background and he was facing 3-4 trials. Under such circumstances, keeping the applicants behind bar would not serve any purpose.

04. The learned APP with the assistance of learned Advocate Mr. Patil vehemently opposed the application. He submits that all the accused are involved in serious crime. Admittedly, there is recovery and the applicants had inimical terms with the deceased. If the accused persons are released on bail, there is further apprehension of law and order situation. The witnesses are only ladies, as male member in the family is murdered. There are criminal antecedents against the applicants and prays that the application be rejected.

05. Looking to the FIR, no doubt serious offence is under section 302 of the IPC is reported. The deceased died because of multiple injuries as shown in the postmortem notes. At the same time it needs to be considered that there is no eye witness to the incident. The case is of circumstantial evidence. Even from the story of the informant, there is

no allegation against any of the accused persons about use of alleged weapon. The alleged weapon is only wooden log/stick, which cannot be said to be a dangerous weapon that would cause injury resulting into death in any manner. For all these reasons, this Court is inclined to allow the application with certain conditions as below :-

ORDER

- (i) The application is partly allowed.
- (ii) The applicants shall be released on bail on furnishing PR bond and solvent surety in the sum of Rs.15000/- (Rupees Fifteen Thousand) each.
- (iii) The applicants shall attend the concerned police station on every second and fourth Saturday of the month between 10 a.m. to 12.00 noon.
- (iv) The applicants shall not enter Amalner Taluka for next three months except for attending the Court and police station.
- (v) The applicants shall not abscond and shall not try to influence any of the prosecution witnesses.
- (vi) The applicants shall furnish their contact details such as residential address, mobile number etc. to the concerned police station.

[KISHORE C. SANT, J.]