



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO. 1555 OF 2024

Farook Saleem Patel,
Age : 33 years, Occupation : Agriculture,
R/o : Jatoda, Tq. : Shindkheda,
District : Dhule. ... Applicant

Versus

The State of Maharashtra ... Respondent

**WITH
CRIMINAL APPLICATION NO. 3931 OF 2024**

Sau. Banobi Miyalal Patel,
Age : 65 Years, Occu : Household,
R/o : Village Jatoda, Tq. Shindkheda,
District Dhule. ... Applicant

Versus

1. Frook Salim Patel
Age : 32 years, Occ. : Business,
R/o. Village Jatoda, Tq. Shindkheda,
District Dhule.
2. The State of Maharashtra,
Through the Police Inspector,
Nardana Police Station,
District Dhule. ... Respondents

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Mr. Jyodeep Chatterji, Advocate for the Applicant in BA/1555/2024.
Mr. S. B. Narwade, APP for the Respondent-State in both applications.
Mr. Ashutosh C. Sisodiya, Advocate for the Applicant in Cri. Appln/
3931/2024.

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CORAM : ABHAY S. WAGHWASE, J.

Reserved on : 17.01.2025

Pronounced on : 21.01.2025

ORDER :

1. Criminal Application No. 3931 of 2024 is filed by the original complainant seeking permission to assist learned APP during hearing of the Bail Application. For the reasons mentioned in the application, applicant is allowed to assist learned APP. Criminal Application No. 3931 of 2024 is accordingly disposed off.

2. Instant bail application is for enlargement on regular bail in consequence to applicant's arrest in crime no. 345 of 2023 registered at Nardana Police Station, District Dhule for offence under Sections 302, 326, 143, 147, 148, 149, 324, 323, 427, 504, 506 of IPC.

3. According to learned counsel for the applicant, applicant is arrested in above crime on 07.01.2024 in the backdrop of occurrence which allegedly took place on 29.12.2023. He pointed out that complainant and victims are in fact relatives. That, there was quarrel on petty count. That, there are cross complaints and the FIR by present applicant's side is first in point of time. That, in the FIR against present applicant and others, it is alleged that there was initial quarrel between informant's nephew and present applicant on flimsy

count. They both were vegetable vendors. Learned counsel pointed out that issue was too minor, but there are allegations that there were abuses. It is further alleged that present applicant and others assaulted complainant's husband and sons, but by sticks. There is also allegations of being hit by stone. Husband of informant, who was old aged, suffered head injury and was admitted and treated in the hospital for 10 days. However, he succumbed. That, initially he was taken to Primary Health Center and later on to Civil Hospital. Learned counsel took this court through the postmortem report, more particularly column no. 17, and pointed out that there is fracture injury.

4. Learned counsel further pointed out that incident had taken place on the spur of moment and all of a sudden, and it was not planned or premeditated attack. He also pointed out that articles allegedly put to use were found lying on the spot and allegations are against over 10 persons for assaulting. Applicant is one amongst them. He also pointed out that except two independent witnesses, rest all witnesses are family members. Learned counsel emphasized that going by the genesis of the occurrence, nature of allegations and nature of articles allegedly used, it cannot be said to be a case of homicide, rather, it would be a case of culpable homicide not

amounting to murder. Applicant being behind bars since one year, learned counsel urges for relief of regular bail as, according to him, applicant is ready to abide all and any conditions imposed by this Court.

5. Opposing the above application, both, learned APP as well as learned counsel for complainant, pointed out that occurrence has resulted into death. There was merciless beating by means of both, sticks and stone. Informant's husband died and others suffered grievous injuries. Specific role of applicant is narrated not only by informant eye witness, but also other injured eye witness and even independent witness and there are medical certificates to that extent. Considering the nature of allegations and it being serious offence, they both opposed the relief.

6. Heard. Perused the papers. On visiting the FIR, it is emerging that law has been set into motion by Banobi Miyalal Patel and she has reported to police that on 29.12.2023, while she, her husband, sons and daughters-in-law were in their house, her nephew Firoz Patel came home and informed that while he was selling vegetables and carrots, present applicant initially abused him in filthy language and was therefore questioned. However, he was threatened to be beaten

and when questioned to that extent, informant claims that 11 persons named in the FIR, including present applicant, came to the courtyard of informant and initially, her nephew Firoz was given kicks and fist blows followed by assault by means of sticks and stone. She claims that when she and her family members tried to separate and intervene, at that time present applicant assaulted her husband Miyalal Patel with stick, as a result of which he collapsed and thereafter, he was also hit by means of stone lying there. She claims that her sons were also beaten by sticks. She further informed that her husband and injured were taken to Primary Health Center Nardana and later on transferred to Dhule Civil Hospital. Thus, she gave report to above extent, on the strength of which, crime was registered and after husband of informant succumbed, crime was converted to Section 302 IPC and other offences.

7. The thrust of argument is that, occurrence was not premeditated and rather, had taken place on account of minor quarrel. That, there are allegations of mere use of sticks and stone and deceased died due to head injury, but after 10 days treatment, and as such, learned counsel was driving at a point to suggest that it was at the most an offence of culpable homicide not amounting to murder. Learned APP and counsel assisting APP on behalf of

complainant have opposed on the ground that there is death of one person and injured have suffered grievous injuries.

8. After studying the papers on above lines, it does emerge that incident had taken place in the morning of 29.12.2023. Informant's nephew Firoz seems to have some verbal and heated exchange of words with present applicant. It is also coming in the FIR that 11 persons came to the house of informant and initially beat her nephew Firoz and when there was intervention by informant and her husband, there are allegations of assault by means of stick and stone. As pointed out, such articles were said to be lying at the scene of occurrence and spot panchanama reflects the same. *Prima facie*, as pointed out, it does appear that informant's nephew and present applicant, who seem to be vegetable vendors, entered into quarrel resulting into use of filthy abuses to the nephew, and on being questioned to that extent, there were said to be threats to kill, allegedly followed by arrival of applicants. Learned counsel has also pointed out that there is crime at the instance of present applicant's side for offence under Section 307 and the said FIR, copy of which is also a part of charge sheet, is also placed on record. Such material suggests that, there are cross complaints of one occurrence. On the strength of instant FIR, crime is registered against 11 persons, but

only five are shown to be chargesheeted. From such material, it does emerge that there are allegations against both sides for causing grievous injuries. Deceased husband of informant apparently has succumbed to the head injury after 10 days. Present applicant is said to be behind bars since 07.01.2024 i.e. since one year. Chargesheet is said to be filed. There is nothing to suggest matter going for trial in immediate near future. Therefore, taking the above nature of accusations into consideration, application deserves to be allowed by imposing strict conditions. Hence, I proceed to pass the following order :

ORDER

- I. The application is allowed.
- II. Applicant Farook Saleem Patel, be released on bail in connection with Crime No. 345 of 2023 registered at Nardana Police Station, District Dhule, on executing Personal Bond of Rs. 15,000/- with one surety in the like amount, on the following conditions :
 - a. The applicant shall not tamper prosecution evidence.
 - b. The applicant shall not enter village Jatoda, Taluka Shindhkheda, District Dhule till disposal of the case.

[ABHAY S. WAGHWASE, J.]