

Ajay

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO. 3425 OF 2024

Satyawan Kisan Waghe

.. Applicant

Versus

State of Maharashtra

.. Respondent

.....

- Mr. Chandran S. Yadav a/w Ms. Bhoomija Yadav and Ms. Madhavi Garve, Advocates for Applicant.
- Mr. Mayur S. Sonavane, APP for State.

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CORAM : MILIND N. JADHAV, J.

DATE : JANUARY 17, 2025

P. C.:

1. Heard Mr. Yadav , learned Advocate for Applicant and and Mr. Sonavane, learned APP for Respondent-State of Maharashtra.

2. This is a Bail Application filed by the Applicant who is arraigned as accused No. 2 for offence punishable under section 302 read with section 34 of Indian Penal Code, 1860 (for short ‘**IPC**’) registered with Badlapur (West) Police Station. Prosecution case is that Applicant had a dispute with son of informant called Rajesh who is the deceased-victim, both families of First Informant and Applicant are residing next to each other in the same locality. Allegation in the FIR appended at page No. 26 by First Informant against Applicant is that he fetched a bamboo stick from his house and handed it over to Accused no. 1 who

admittedly inflicted a blow on the head of the victim that is son of First Informant.

3. The incident occurred on 07.11.2018, when due to certain arguments between the victim and his friend were going on with the applicant and his friends outside the local kirana shop belonging to one Mr. Ramesh Bhoir, the said verbal altercation between the two groups lead to hurling of abuses to each other and Accused No.1 and Accused No. 2 got infuriated to such an extent that they tried to physically confront and beat the victim.

4. At that time First Informant intervened and held the Accused No.1 who was aggressive towards the victim. This act further infuriated Accused No.2 i.e. Applicant, so he went inside his house that was nearby and returned with a bamboo stick and handed it over to Accused No.1. Thereafter Accused no.1 inflicted a blow on the temple above the right ear of the victim leading to his fall on the ground and he started bleeding profusely.

5. The family members of both the groups gathered around and the victim was immediately moved to the local dispensary at Badlapur and admitted him at around 9:00 a.m. in the morning. The victim succumbed to his injury in the afternoon of the same day. The Complainant – First Informant, is the father of victim who has stated

in the complaint that the quarrel between the parties escalated due to some small issue (किरकोड भांडण चा राग) which led to a verbal altercation first and the infliction of blow with the bamboo stick.

6. I have perused the FIR and statements that are recorded of the witnesses present at the incident what is stated in the FIR by the First Informant is echoed by the witnesses to the incident also.

7. One of the other ground for moving the Bail Application is that though the Applicant is 40 years old, he is suffering from chronic neurological disorder and requires regular treatment. Previous order of rejection of bail dated 27.01.2021 appended at page No. 128 by the Sessions Court has noted the fact that after going through the medical record of the Applicant it is found that Applicant / Accused is diagnosed of "*cranio cervical dystonia*" and in the past while in prison he was multiple times referred to J.J. Hospital for examination and treatment. The Applicant is on prescribed medicines namely "multivitamins" and "calcium tablets".

8. It is seen that applicant is arrested on 08.11.2018 and he is in incarceration for 6 years and 2 months. He is having three children and is the bread-winner of his family.

9. It is seen that apart from Applicant's medical condition, his role in the crime is clearly depicted as stated hereinabove according to

Complainant himself that Applicant has aided and abetted the crime by bringing a bamboo stick from his house and handed it over to Accused No.1. Admittedly he has not inflicted the blow on the victim *prima facie* it is seen that the crime is not pre-meditated or there is any conspiracy as according to Complainant himself the quarrel took place due to a minor issue between the parties.

10. Having regard to the role of Applicant and his long incarceration has also the fact that Applicant's medical condition is such that he requires regular treatment. I am clearly of the opinion that Applicant deserves to be enlarged on bail.

11. Chargesheet has been filed and likelihood of trial being completed soon is unlikely therefore in order to strike a delicate balance between ensuring Applicant's personal liberty and the fact that the trial would take an unduly long period of time and most importantly Applicant having no antecedents and also he having a family and deep roots in the community, I am inclined to allow the present Application.

12. In view of the above, Application is allowed in terms of prayer clause (b) however subject to the following terms and conditions:-

- (i) Applicant be enlarged on bail on executing
PR. Bond in the sum of Rs.25,000/- (Rs. Twenty-

five thousand only) with one or two sureties in the like amount;

(iii) Applicant shall co-operate with the conduct of trial and attend the Trial Court on all dates, unless specifically exempted and will not take any unnecessary adjournments, if he does so it will entitle the prosecution to apply for revocation of this order;

(iv) Applicant shall not misuse his liberty in any manner or influence the informant, witnesses or any person concerned with the case and he shall not tamper with the evidence;

(v) Applicant shall deposit his Passport if any with the Investigating Officer within a period of one week from date of release on bail;

(vi) Applicant shall furnish particulars of his address and mobile number to the Investigating Officer within one week from today and in event of any change keep the Investigating Officer informed about the same;

(vii) Investigating Officer shall allow Complainant

to participate in the investigation and seek information from Complainant with respect to recovery of balance amount and call for necessary information;

(viii) Any infraction of the above conditions shall entail revocation of this order.

13. Parties to act on a server copy of this order.

14. The aforesaid observations are *prima facie* on the basis of record of the case which has been argued before me and is an expression of opinion by this Court only for the purpose of enlargement of Applicant on bail and shall not influence the trial in the present case.

15. Bail Application stands allowed and disposed.

[MILIND N. JADHAV, J.]

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by AJAY
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