



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

6 BAIL APPLICATION NO.1445 OF 2018

Pravin s/o Zulalsing Girase,
Age : 28 years, Occu.: Agriculturist,
R/o.: Village Rajale,
Taluka and District : Nandurbar ... Applicants

VERSUS

The State of Maharashtra,
Through : Nandurbar Taluka Police Station,
Nandurbar. ... Respondent

...
Advocate for Applicant : Mr. C. C. Deshpande
APP for the Respondent-State : Mr. A. S. Shinde
Advocate for the original informant : Mr. S. G. Chincholkar
...

CORAM : MANGESH S. PATIL, J.
DATE : 17-01-2019.

PER COURT :

The applicants are seeking bail in connection with Crime No. 119 of 2018 registered with Police Station Nandurbar Taluka, District : Nandurbar for the offences punishable under Sections 302 and 323 read with Section 34 of IPC etc.

2. The prosecution case is that on account of some dispute, on 22 July 2018 between 3.00 to 3.30 p.m., the applicant and the

other accused in furtherance of their common intention assaulted Arun Sonu Koli with kicks and fist blows. The incident was witnessed by one Gopal Ananda Koli. When he tried to intervene, even he was assaulted. He, therefore, rushed to the informant, who is the brother of Arun and informed him about the incident. They both came back to the spot where the applicant and the other accused were assaulting Arun. After seeing them arrived, they fled away. When they examined Arun, he was dead. He lodged the report. The offence was registered. The applicant and the other accused were arrested and in due course of time the charge sheet has been filed.

3. It is certified during the course of post-mortem examination that the deceased had died of 'Head injury associated with Haemoperitoneum'.

4. The learned advocate for the applicant submits that accepting the prosecution version at its face value, no intention

or knowledge could be attributed much less of causing death. No weapons were used. For some reason the deceased was allegedly assaulted with kicks and fist blows. The investigation is already over. There is absolutely no material revealing motive as well. There are no criminal antecedents. The applicant is permanent resident of the village and is not likely to jump the bail. The trial is not likely to commence in the foreseeable future and the applicant may be granted bail with suitable conditions.

5. The learned A.P.P. duly assisted by the learned advocate for the original informant strongly opposes the application. He submits that there are eye witnesses in the form of Gopal Koli and Prashant Koli, who had seen the applicant and the other accused assaulting the deceased. There was no dispute about any identification since these witnesses were knowing them. The offence is serious and punishable up to death. There is every possibility of the applicant influencing and threatening the witnesses causing serious prejudice to the prosecution and

he may not be granted bail.

6. I have carefully gone through the papers. Suffice for the purpose to note that accepting the prosecution version at its face value, there is absolutely no material to attribute any motive on the part of the applicant and the other accused to cause death of Arun. Accepting the prosecution version and that of the eye witnesses, the deceased was assaulted with kicks and fists. No weapon was being carried.

7. Taking into account the cause of death and all the aforementioned facts and when there are no criminal antecedents and the investigation is also over, the applicant deserves to be released on bail subject to suitable conditions, which would allay the fear being expressed by the prosecution. Hence, I pass the following order.

ORDER

(i) The application is allowed.

(ii) The applicant be released on bail on his executing

personal recognizance for an amount of of Rs.25,000/- and furnishing a solvent surety in the like amount subject to the following conditions :

- (a) He shall immediately leave the jurisdiction of village Rajale, Taluka and District : Nandurbar and shall not re-enter till conclusion of the trial.
 - (b) He shall not tamper the evidence or influence the witnesses.
 - (c) He shall inform the concerned Police Station about his new residential address and the contact number.
- (iii) Bail before the Sessions Court.
- iv) It is made clear that the observations made herein above are confined to the decision of this application and the learned Trial Judge shall not feel influenced by them.

(MANGESH S. PATIL, J.)

vsm/-