



**ORDER BELOW EXH.04**

(Passed on 11.12.2023)

1. Accused namely **Rajesh Gurudev Sonone, Arjun Gajanan Sonone** filed this application for bail under Section 439 of the Cr.P.C. It is first bail application of the accused. Reply of State is called. It is at Exh.06. APP filed separate reply at Exh.07. This case is based on crime No.438/2023 registered with Jalgaon Jamod Police Station under Sections 302, 427, 352, 504 r/w 34 of Indian Penal Code and Section 92(b),(e), 95 of Right of Persons with Disabilities Act. Both the accused are arrested on 25.08.2023. Charge sheet is filed on 24.11.2023.

2. I have heard Advocate Mr.S.G.Bihade for the accused and APP Mr.S.B.Ingle for the State. Advocate for the accused submits that, inquest panchnama, postmortem report and opinion of Doctor about weapon clearly shows that sticks which were allegedly used by the accused can not cause death. It is argued that postmortem report though shows external injuries but there was no internal injury which can cause death. It is argued that age of accused No.1 is 19 and age of accused No.2 is 21. As investigation is completed so both the accused may be released on bail. APP submits that complaint and statement of one Laxmi clearly shows that accused with sticks assaulted the deceased on 23.08.2023. The deceased was differently able. Thus, considering involvement of the accused bail may not be granted.

3. I have gone through final report. Complaint reflects that on 23.08.2023 allegedly the accused assaulted the deceased with sticks. One Laxmi Pawar has seen the alleged incident. Statement of said Laxmi also speaks about use of sticks by the accused. During investigation police has seized two sticks from the accused Arjun. Record shows cloths of the deceased has also been seized along with other biological samples and they are sent for chemical analysis.

4. It is evident that except sticks no other weapon is involved in the alleged offence. Postmortem report reflect five injuries were found on the person of the deceased. And all those were *abrasions* of different size. Scalp, skull found with no injury or fracture. Same is the finding about thorax, abdomen and all other internal organs. PM report reflect that though *“there were external injuries but there were no internal corresponding injuries, which can cause death or sufficient to cause death”*.

5. In view of findings of postmortem report, opinion of Medical Officer about the weapon i.e. sticks and cause of death is very much important. IO vide its letter dated 29.08.2023 sought opinion of Medical Officer on this vital point. I have gone through said opinion dated 29.08.2023. Medical Officer has observed that injuries on body of the deceased can be possible by sticks. However, while answering question No.2 in his report Medical Officer opined that *death is not caused because of injuries made by those sticks*.

6. Thus, postmortem report and opinion of the Doctor at this stage is crucial which does not support arguments made by APP. Procedural aspects of investigation has been completed. No doubt there are some statements on record which speaks about assault by the accused with sticks but above two reports are very crucial which at this stage negate internal injuries and role of sticks so far as death is concerned.

7. Since 25.08.2023 both the accused are under detention. Age of accused No.1 is 19 and age of accused No.2 is 21. Considering above finding and age of the accused their further detention in jail will serve no purpose. Reply of State does not reflect previous criminal record of the accused. In such circumstances both the accused deserves to be released on bail. To ensure safety of informant and other witnesses few stringent conditions needs to be imposed on both the accused.

8. This being first bail application after charge sheet certainly it is tenable because filing of charge sheet is change in circumstance. However, it appears that it is the very first bail application of both the accused since from their arrest. Thus, I find substance in the submission made by Advocate for the accused. Thus, grounds are satisfactory. Hence, order.

#### ORDER

1. Application is allowed.
2. Accused namely **Rajesh Gurudev Sonone, Arjun Gajanan Sonone** be released on bail on their executing PB & SB of Rs.50,000/- each with one or more surety in like amount.

3. Both the accused shall not indulge in any criminal activity/offence.
4. Both the accused shall furnish address proof and contact numbers of their two relatives.
5. Both the accused shall not enter in village **Chawara**, Tq.Jalgaon Jamod, Dist.Buldhana **till disposal of this case.**
6. Both the accused shall attend each date of hearing without fail.
7. If both the accused violate any of above conditions their bail will be liable to be cancelled.

Khamgaon  
Dt. 11.12.2023

*Sd/-*  
(Prasad P. Kulkarni)  
Additional Sessions Judge  
Khamgaon

### Certificate

I affirm that the contents of this P.D.F. file is correct, word to word as per original order.

Name of Court : Additional Sessions Judge, Khamgaon,  
Name of Steno : Govinda D. Bhoyte (Stenographer Grade-III)  
Decided on : 11.12.2023  
Checked & signed on : 11.12.2023  
Uploaded on : 11.12.2023