

Order below Exh. 17 in Sessions Case No. 68/2018.

1) This is an application for bail under section 439 of the Cr.P.C.

2) The case of the prosecution in brief is that on 8/4/2018 at 11.30 p.m. Pradeep Wakade, who is the distant maternal uncle of the informant came to the house of the maternal uncle of the informant by the name of Amrut Wakade. At that time dog of Pradeep Wakade was with him. Pradeep Wakade said to the informant and others that when he was taking his dog from in front of the house of Vikas Wakade (accused No.1), the dog of Pradeep Wakade started barking at the dog of accused No.1 Vikas Wakade. This infuriated the accused No. 1 Vikas Wakade so much that accused No. 1 started abusing Pradeep Wakade and slapped Pradeep Wakade on the cheek. Thereafter, maternal uncle of the informant Amrut Wakade along with Sidhartha Wakade and Pradeep Wakade left for the house of Vikas Wakade. On the way to Thakur Kutir, accused Vikas Wakade, Vishal Wakade and Abhijit Wakade were hiding themselves, all of a sudden, they came in the light of the pole armed with iron rods. Accused No. 1 Vikas Wakade delivered a blow of iron rod on the head of Amrut Wakade. Accused No. 2 Vishal Wakade delivered a blow of iron rod on the cheek and head of Pradeep Wakade. Accused No. 3 Abhijit Wakade delivered a blow of iron rod on the head of Siddhartha Wakade. On witnessing the incident, the informant started shouting. On hearing his shouts Nitin Patil, Rajesh Mohite and Darshan Wakade came there running. Soon thereafter, the present applicants i.e. Manohar Wakade, Sudhakar Wakade and Vasant Wakade came there with hockey sticks and they beat the informant, Nitin Patil, Rajesh Mohite and Darshan Wakade by means of hockey sticks. Amrut Wakade died during the

incident.

3) On these allegations FIR was lodged on 9/4/2018. After completion of investigation, charge sheet was submitted in the trial Court and it has been committed to this Court for trial.

4) Heard Shri. Bangera, learned counsel for the petitioners and Shri. Salvi, learned Additional Public Prosecutor for the State and Shri. Vikram Chavan, learned counsel for the original complainant.

5) Shri. Bangera, submitted that the incident is divided into two parts. The first incident pertains to the attack on the deceased Amrut Wakade and Pradeep Wakade. They were attacked by both the petitioners i.e. Vishal Wakade and Abhijit Wakade. Petitioner Nos. 1 and 2 assaulted Pradeep Wakade and Sidhartha Wakade. He submitted that the deceased Amrut Wakade was assaulted by accused Vikas Wakade. Pradeep Wakade and Siddhartha Wakade though had sustained grievous injuries have been discharged from the hospital. He submitted that since they have no role in causing the death of the deceased, they be released on bail.

6) Shri. Salvi submitted that it is a case of unlawful assembly and on that account all the petitioners are liable for the death of the deceased. The offence is serious in nature. He submitted that the atmosphere in the village is still charged and if they are released on bail anything can happen. He, therefore, submitted that the petitioners may not be released on bail.

7) Shri. Chavan, learned counsel for the original complainant in his written arguments submitted that both the petitioners assaulted witnesses Pradeep Wakade and Siddhartha Wakade by means of iron rod. Having regard to their role and that Amrut Wakade lost his life in the incident, the petitioners may not be released on bail.

8) On perusal of the papers it is seen that the deceased Amrut Wakade was assaulted by the accused Vikas Wakade. The petitioners assaulted Pradeep Wakade and Siddhartha Wakade by means of iron rods on their heads. It is not disputed by the counsel of the complainant Shri. Chavan and the learned Addl. P.P. Shri. Salvi that both Pradeep Wakade and Siddharth Wakade have been discharged from the hospital. Therefore, there is no possibility of conversion of the offence into a grave one. The accused, who has assaulted the deceased Amrut Wakade has not applied for bail. In this view of the matter, I am inclined to release the petitioners on bail.

9) To allay the fear of the learned Additional Public Prosecutor, some conditions can be put on the petitioners/accused. In this view of the matter, following order is passed.

ORDER

1. Petition is allowed.
2. Each of the petitioners/accused Vishal Sudhakar Wakade and Abhijit Sudhakar Wakade, be released on P.R. bond of Rs. 1,50,000/-, with one solvent surety in the like amount each and on condition that they shall not enter village Saswane, Tal. Alibag, Dist. Raigad, for a period of one year.

**Alibag,
Date : 18/09/2018**

**(M.G.Sewlikar)
Sessions Judge, Raigad-Alibag.**