

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,**  
**NAGPUR BENCH, NAGPUR**

**CRIMINAL APPLICATION (BA) NO.1025 OF 2016**

**Ramesh s/o Venkati Jangam**

**..VS..**

**The State of Maharashtra, through Police Station Officer, Police Station Asaralli,**  
**District Gadchiroli**

.....  
Office Notes, Office Memoranda of Coram,  
appearances, Court orders or directions  
and Registrar's orders  
.....

Court's or Judge's Order

Shri R.M. Daga, Counsel for the applicant.  
Shri V.P. Gangane, Addl.P.P. for the non-applicant.

**CORAM : P.N. DESHMUKH, J.**  
**DATED : JANUARY 16, 2017.**

This application is filed by accused involved  
in Crime No.6 of 2015 registered under Section 302  
read with Section 34 of the Indian Penal Code for bail.

Heard learned counsel for the applicant and  
learned Additional Public Prosecutor for the non-  
applicant.

It is contended that from the report lodged  
by eyewitness, no role is attributed to applicant nor any  
weapon is attributed to him. It is further contended  
that from the documents filed with the charge-sheet,  
prosecution has produced only one weapon that is  
sickle alleged to be involved in the present crime.  
However, according to its inquest panchanama, one  
weapon like, sphere blade is found stuck in the skull of  
deceased.

It is further contended that according to the spot panchanama, deceased was found lying injured in her field having surrounded with Neelgiri Trees on one side of the field, having cotton crop. According to the report, complainant, who is husband of deceased, at the time of incident was working in one of the corners in his field. It is, therefore, submitted that possibility of complainant's witnessing incident is remote. It is, therefore, submitted that as investigation is complete and since from the case of prosecution it cannot be said that what was the weapon of assault alleged to be used by applicant, application be allowed by imposing suitable conditions.

Learned Additional Public Prosecutor has opposed the application on the lines of reply-affidavit on record and has further stated that statement of eyewitness Shrihari is recorded under Section 164 of the Code of Criminal Procedure to establish direct involvement of applicant. The prosecution has also relied upon statement of Mahakali to be eyewitness of the incident. However, learned Additional Public Prosecutor has admitted that there is no statement of eyewitness Shrihari recorded under Section 161 of the Code of Criminal Procedure but his statement under Section 164 of the Code of Criminal Procedure is only recorded after more than one month of the incident on 10.9.2015. Learned Additional Public Prosecutor also

did not dispute fact of non-recording statement of Police Head Constable Dilip Ingatwar who according to the prosecution has translated statements of witnesses recorded in Telgu language to Marathi. Learned Additional Public Prosecutor has, however, prayed that the application be rejected.

In the background of submission advanced as aforesaid, on perusal of report lodged by husband of deceased, he has stated that at the time of incident while he was working in the same field, in one of its corners, he heard noise at around 2:30 p.m. and noted that applicant who is brother of deceased was assaulting her while complainant started running towards the spot. He also found co-accused Bapu Jangam, brother of applicant, running from the spot. On reaching near his wife, complainant noted that she was lying in the pool of blood, having one sharp weapon stuck in her head. He has further stated that Mahakali, who was present on the spot, informed complainant that applicant had assaulted deceased by one weapon on her head.

From the contents of report it thus reveals that though according to the complainant he has seen applicant committing assault on deceased and also found co-accused Bapu running from the spot, on his reaching to the spot, his wife was found lying in the pool of blood and from Mahakali, he learnt about

involvement of the applicant as assailant who has caused assault on her head by sharp weapon. In the light of contents of the report, same appears to be silent about weapon involved in the crime.

Statement of Mahakali which is immediately recorded after the incident corroborates with the contents of F.I.R.. Admittedly, all the witnesses who are examined are Telgu. Learned Additional Public Prosecutor has not disputed fact of prosecution, not recording statement of Police Constable Dilip who according to its case has translated statements of witnesses who have stated in Telgu language in Marathi.

In the background of contents of report, on perusal of spot panchanama, dead body was found lying in the centre of the field having surrounded with cotton crop and Neelgiri plantation on one side. Admittedly, complainant is silent as to what is the weapon used in the present crime which aspect even is not found clarified by the prosecution as from the seizure panchanama one sickle is found seized from the spot. It is not in dispute that in the entire charge-sheet sickle is the only weapon stated to be involved in the present crime.

In that view of the matter, on perusal of inquest panchanama which came to be drawn in the hospital, it is stated that while drawing of said panchanam, one sphere blade was found stuck in the

head of deceased. No explanation is on record as to why this weapon is in that case relevant when according to the case of prosecution, one sickle was seized from the spot and sickle is the only muddemal shown to be involved in the present crime. Though according to the postmortem report cause of death of deceased is by way of assault on his head, in view of facts as aforesaid, it cannot be attributed if the injury sustained by deceased was caused by applicant by any weapon.

In that view of the matter and since the charge-sheet is filed, the application is allowed by imposing conditions as per order below:

The applicant shall be released on bail on his executing P.R. Bond in the sum of Rs.50,000/- with one surety in the like amount.

While on bail, the applicant shall mark his presence with Asaralli Police Station, District Gadchiroli initially on the first day of each month for six months and, thereafter, once in three months, pending trial.

The applicant shall not reside at Nadikuda, Tahsil Sironcha, District Gadchiroli, until further orders.

The criminal application is disposed of accordingly.

**JUDGE**

!! BRW !!

.....6/-

**C E R T I F I C A T E**

I certify that this Order/Judgment uploaded is a true and correct copy of original signed Order.

Uploaded by : Bhushan R.Wankhede.  
(Personal Assistant)

Uploaded on :- ../1/2017