

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

CRIMINAL APPLICATION (BA) NO.2/2019

Rasul Shah s/o Tavakkal Shah

..VS..

State of Mah., thr. its PSO PS Balapur, Taluka Balapur, District Akola

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

Court's or Judge's Order

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Shri N.R.Tekade, Counsel for the Applicant.
Shri S.D.Sirpurkar, Addl.P.P. for the State.

CORAM : M.G.GIRATKAR, J.

DATED : MARCH 18, 2019.

1. This is an application under Section 439 of the Code of Criminal Procedure for grant of bail.
2. Heard learned counsel Shri N.R.Tekade for the applicant and learned Additional Public Prosecutor Shri S.D.Sirpurkar for the State.
3. Learned counsel Shri N.R.Tekade for the applicant submits that the applicant had no intention to kill his son. Weapon used was simple i.e. wooden stump (wooden handle of spade). Cause of death is head injury. He submits that the applicant will not reside in village Balapur. Therefore, he prays for grant of bail in favour of the applicant.
4. Learned Additional Public Prosecutor Shri S.D.Sirpurkar for the State strongly opposes the present application. He submits that report was not lodged by wife or any relative of deceased. Deceased was admitted in

hospital and was declared him as dead. Information was given by Medical Officer to police station. Merg was registered and during inquiry, statements of wife of accused, son, and daughters were recorded.

5. After inquiry, it was found that accused killed his son because he had not given money to consume liquor.

6. Perused statements of Khurshid Bano, Nazia Parveen, and Nafis. Khurshid Bano is wife of accused, Nazia Parveen is daughter and Nafis is son of accused. They all stated before police and also before the Court, when their statements under Section 164 of the Code of Criminal Procedure were recorded, that accused is person who committed murder of son. Statements of Khurshid Bano, Nazia Parveen, and Nafis show that deceased was sitting for dinner. The accused is addicted to liquor and always used to quarrel with his sons and was also beating them. Sons were tolerating acts of the accused.

7. On 16.6.2018, accused came to house under influence of liquor in the night at 8:00. Elder son Rafique was sitting for dinner. Accused kicked dinner plate and asked to give him Rs.100/- for consuming liquor. Deceased told him that he was not having money. Accused took wooden stump (wooden handle of spade) and gave a blow on stomach and head of deceased. Younger son Nafis caught that wooden stump. Deceased was going to house of his grandmother. Accused chased him and again beat deceased. Deceased fell down on road and became unconscious. Deceased was assaulted in the house.

8. All witnesses have stated before the police and also before learned Magistrate that the accused beat the deceased because he had not given him Rs.100/- to consume liquor. All material witnesses are close relatives i.e. wife, son and daughter. There is possibility of tampering of their evidence. There is sufficient evidence on record against the accused.

9. In that view of the matter, the criminal application is rejected and disposed of accordingly.

JUDGE

!! BRW !!

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