

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

Criminal Application (BA) No. 413 of 2019

Sachin Santosh Benibagde

Vs.

State of Maharashtra through P.S. Nandanvan, Nagpur.

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

Court's or Judge's orders

Mr.M.N. Ali, Advocate for applicant
Mr. V.P. Maldhure, APP for non-applicant.

CORAM : MANISH PITALE, J.

DATED : JUNE 20, 2019

The applicant herein is seeking bail in respect of FIR dated 08/12/2018, for offence punishable under Section 302 of the Indian Penal Code. The complainant herein is the brother of the applicant and the victim is their father.

2. As per the oral report lodged by the complainant leading to registration of FIR, it was stated that the deceased was a person addicted to consumption of alcohol and creating a scene in his house. The deceased used to allegedly beat up his own wife i.e. the mother of the applicant as well as the complainant after consuming liquor, due to which she had left the house and started residing at the house of her brother. On the date of incident i.e. 07/12/2018,

when the complainant had taken his pregnant wife for hospitalization, he received a call from the applicant stating that he had assaulted the deceased and caused serious injuries. In fact, it is stated in the complaint that the police also spoke to the complainant.

3. It appears from the material on record that when the applicant and the deceased were together in the night at home, the deceased upon consuming liquor had entered into the quarrel with the applicant and in a fit of anger the applicant picked up weapon i.e. steel rod with circular blades and repeatedly assaulted the deceased on his face and head. This resulted in the death of the victim on the spot. It has also been recorded that the applicant himself was walking towards the Police Station for reporting what had happened and that he met the police and process of registering of complaint and FIR was undertaken. The learned counsel for the applicant has invited attention of this Court to the statements made by witnesses, who are neighbours of the applicant, wherein it is consistently stated that the deceased used to consume liquor and quarreled with family members and he used to create nuisance. On this basis, it is submitted on behalf of the applicant that since investigation is complete and chargesheet has been filed on 06/03/2019, the applicant deserves to be enlarged on bail, particularly when there are no criminal antecedents.

4. The learned APP has opposed the present application, inviting attention of this Court to the post-mortem report wherein as many as 42 injuries have been recorded on the body of the victim. It is submitted that if the assault had been carried out in a fit of rage, as claimed by the applicant, the assault would not have been so brutal. It is submitted by the learned APP that looking to the nature of the injuries and manner of brutal assault as well as weapon used, the applicant does not deserve any consideration for grant of bail.

5. Having heard the learned counsel for the parties and on perusing the material placed on record, it appears that the deceased was a person who upon consuming liquor used to quarrel with family members and he used to create nuisance in the house. It has come on record that his wife i.e. the mother of the applicant and the complainant was forced to leave the matrimonial house and live at the house of her brother. The neighbours have also clearly stated before the police that the deceased was indeed habitual to liquor and that he created nuisance in his house. It appears that on the date of the incident, upon consuming of liquor, the deceased had picked up quarrel with the applicant and in the process, in a fit of rage, the applicant appears to have assaulted his father.

6. Although, there were number of injuries on the body of the deceased, that alone cannot be a factor to deny bail to the applicant, particularly, when he does not have any criminal antecedents. The weapon used in the present case does not appear to have been brought from outside because the deceased was said to be a carpenter and it could very well have been an implement used by him. The manner in which the incident appears to have occurred does go to show *prima facie* that the applicant lost control and assaulted his own father in a fit of rage. In these circumstances, case for grant of bail is made out by the applicant, particularly because the investigation is complete and the chargesheet has been already filed. The learned APP has submitted that in the facts and circumstances of the present case, it would be in the interest of justice that the trial be expedited. In view of the above, the application is allowed.

7. The applicant is directed to be released on on bail on furnishing PR bond of Rs.25,000/- with surety in like amount. The applicant shall attend the proceedings before the Trial Court on each and every date.

8. The Trial Court is directed to expedite the trial proceedings and dispose of the same expeditiously.

9. Needless to say that any violations of the conditions imposed by this Court would lead to cancellation of bail.

JUDGE

MP Deshpande