

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

CRIMINAL APPLICATION (ABA) NO.619/2019
Sandeep s/o Prakash Sontakke

..VS..

State of Mah., thr. PSO Mehkar, Taluka Mehkar, District Buldana

.....
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 A.J.Thakkar, Counsel for the Applicant.
Shri S.M.Ghodeswar, Addl.P.P. for the State.

CORAM : V.M.DESHPANDE, J.
DATED : SEPTEMBER 30, 2019.

1. Heard learned counsel Shri A.J.Thakkar for the applicant and learned Additional Public Prosecutor Shri S.M.Ghodeswar for the State.
2. The applicant is apprehending his arrest in connection with Crime No.118/2019 registered with Mehkar Police Station, Taluka Mehkar, District Buldana for offences under Sections 302, 143, 147, 148, 149, and 504 of the Indian Penal Code.
3. According to learned counsel Shri A.J.Thakkar for the applicant, investigation is over and chargesheet is filed before the Court of law. He submitted that when alleged incident took place, the applicant working with "Spandana Spoorthy Financial Private Institution" had been to village Chakur, taluka Arni, District Yavatmal in respect of recovery of debts of the said firm. He submitted that if pre-arrest bail is granted to the applicant, the applicant

is ready to extend full cooperation to Investigating Officer.

4. *Per contra*, learned Additional Public Prosecutor Shri S.M.Ghodeswar for the State, vehemently opposed the present application. He submitted that the applicant shown as accused No.5 in chargesheet is absconding and, therefore, while presenting chargesheet under Section 299 of the Code of Criminal Procedure, Investigating Officer prayed for issuance of standing Non Bailable Warrant against the applicant and also reserved right to file additional chargesheet in view of Sub section (8) of Section 173 of the Code of Criminal Procedure.

5. Chargesheet reveals that in incident dated 11.4.2019, occurred in agricultural field of Digambar, Digambar and his son Ashok lost their lives due to murderous assault made on them by accused persons including the present applicant. Postmortem report of Ashok shows that he suffered 16 injuries both lacerated, contusion, and chop wounds etc.. Also, on opening of his dead body, a fracture was noticed to his skull. Cause of death was head injury.

6. Similarly, postmortem report of Digambar shows that he suffered in all 35 external injuries on his person, resulting into his death.

7. First informant Jayshree is the widow of Ashok and daughter-in-law of Digambar, the deceased. Incident in question occurred on

11.4.2019 at evening hours. First Information Report is lodged on 12.4.2019 that is on the next day. Thus, there is no delay in lodging of the First Information Report. In the First Information Report itself it is stated that she was present in her house when her husband Ashok and father-in-law Digambar went to their agricultural field for agricultural work. At about evening hours, it was informed that quarrel is going on in the agricultural field and, therefore, she went to agricultural field to notice that co-accused Baban Sontakke, Prakash Sontakke, Nandabai Sontakke, Chandrakalabai Sontakke, and present applicant Sandeep encircled Ashok and Digambar, deceased persons, and they were assaulting both the deceased persons. According to the report, the present applicant was holding stick and assaulting both Ashok and Digambar by means of said weapon. Injuries noticed in both postmortem reports are attributable to the weapon held by the applicant.

8. Contention of learned counsel Shri Anil Thakkar for the applicant that at the relevant time the applicant was at village Chakur, taluka Arni, District Yavatmal in respect of recovery of debts of "Spandana Spoorthy Financial Private Institution," in which the applicant was working; is defence and the said will have to be proved at an appropriate stage. However, the present is not stage wherein such defence can be considered especially when in the First Information Report not only the presence of the

applicant is reflected but specific role is attributed by the first informant who is an eyewitness that the applicant assaulted both Ashok and Digambar, the deceased, by means of stick.

9. In this view of the matter, there is no merit in the application. The criminal application is rejected and disposed of accordingly.

JUDGE

!! BRW !!

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