

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

CRIMINAL APPLICATION (BA) NO. 982 OF 2019

Gopal s/o Shankar Belurkar .Vs. State of Maharashtra,through P.S.O, P.S.
Patur, Tq. Patur, Dist. Akola.

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

Court's or Judge's orders.

Mr. G.S. Umale, Advocate for applicant.

Mr. N.R. Rode, A.P.P. for non applicant- State.

CORAM : V. M. DESHPANDE, J.

DATED : NOVEMBER 19, 2019

Heard Mr. Umale, learned counsel for the applicant and Mr. Rode, learned Additional Public Prosecutor for non applicant-State.

The applicant is arrested in connection with Crime No.420/2019 registered with Police Station, Patur, Tq. Patur, Dist. Akola for an offence punishable under Sections 302, 307 and 324 of the Indian Penal Code. Therefore, the applicant has moved this application for regular bail.

The investigation is over and charge-sheet is already filed and preciously that is the submission on the part of the learned counsel for the applicant that further custodial presence of the applicant is not necessary.

The application is vehemently opposed by the learned Additional Public Prosecutor for the State. He submitted that the applicant not only assaulted on his mother and niece but also killed his own three years daughter. He submitted that in presence of the eye

witnesses the assault was made by the applicant on his niece and mother. He submitted that application be rejected.

The first information report is lodged by Baburao, brother of the present applicant. He is not eye witness. The report shows that the applicant used to demand partition in the agricultural field as well as residential house. He used to pick quarrel with Shankuntalabai, their mother. He also used to ask if the partition is not made then electrical shop be opened in his name.

Report would show that first informant received information about the assault and therefore he went to Government Hospital at Akola. He thereafter lodged report.

During the investigation body of Mayuri, the daughter of the applicant, is aged about three years was sent for postmortem. The postmortem report shows that there were seven injuries on the dead body of Mayuri and all injuries were ante mortem. The cause of death according to the autopsy surgeon was asphyxiation due to throttling. In view of the observation made by the three doctors who conducted the autopsy it is clear that death of Mayuri was homicidal one.

During the course of investigation statements of Gayatri as well as Shakuntalabai were recorded. Their statements were recorded immediately. Gayatri is aged about 16 years. The statement of Shakuntalabai would show that she is a pensioner and the applicant is her younger son, elder son is Baburao and Gayatri is his daughter. Her statement would show that wife of applicant Gopal had been

to her parental house. Her statement would show that Gayatri used to reside with Shakuntalabai and applicant at Patur. Her statement discloses that she is having 17 acres of land out of that 12 acres stands in her name and 2 acres in the name of applicant and 3 acres in the name of Baburao.

According to her statement, on 03.12.2018, she and Gayatri were sleeping in their room whereas present applicant was sleeping along with his daughter Mayuri aged three years in the middle room, when at about 03:00 a.m. the applicant gave a call to Shakuntalabai and asked her that since there is snake, she should follow him and therefore when she followed the applicant in the back yard, she was assaulted on her thigh by means of iron rod. Therefore, she shouted. On hearing her shouts, Gayatri came. She tried to intervene in the assault however that time the applicant gave iron rod blow on Gayatri's head. At that time neighbour Chakradhar, one Priyanka and Vijay came and they took Gayatri in their house. When she was sitting on the *Ota*, at that time as per her statement, Gopal the applicant went inside the house and brought Mayuri and threw to the gate. The injury certificate of Gayatri is available in the charge-sheet which shows that she suffered injury. Similarly, injury certificate of Shakuntalabai is also part and parcel of the charge-sheet which also shows that she was assaulted.

Independent witness Chakradhar's statement would also show that he noticed the assault on Gayatri by the applicant. Since Shakuntalabai was assaulted prior to

the assault on Gayatri, nobody can expect that he was eye witness to the incident.

The applicant has committed one of the most heinous crime. The case of the prosecution is substantiated by the medical reports and the statement of eye witness. In my view, in such a case it will be hazardous to release the applicant on bail.

The application is rejected.

JUDGE

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