

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

CRIMINAL APPLICATION (BA) NO.2/2020

Anil s/o Waman Bangar .vs. State of Maharashtra through PSO P.S.
Jalalkheda, Dist. Nagpur.

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

Court's or Judge's orders.

Mr. C. R. Thakur, Advocate for applicant.
Mr. N. B. Jawade, A.P.P. for non applicant-State.

CORAM : V. M. DESHPANDE, J.

DATED : JANUARY 10, 2020

Heard Mr. Thakur, earned counsel for applicant
and Mr. Jawade, learned A.P.P. for non applicant-State.
Also perused entire charge-sheet which is placed on record.

Applicant is arrested on 27.06.2019 in connection
with Crime No.219/2019 registered with Police Station,
Jalalkheda, Dist. Nagpur for an offence punishable under
Section 326 of the Indian Penal Code (IPC). However,
subsequently, due to death of injured Vyankatrao, offence
was converted into an offence punishable under Section 302
of the IPC.

The FIR is lodged by Bhimrao son of the deceased
Vyankatrao. He is not an eye witness. The report would
show that on 26.06.2019, from a neighbour, he got an
information that his father is assaulted by the applicant at
bus stop and therefore he proceeded towards the said
direction. That time, he noticed that his father was lying
near a pan kiosk of one Mustafa Pathan and was having

bleeding injury on his head. The applicant was also present there and according to the first informant, the applicant disclosed that he has assaulted on his father.

Charge-sheet would show that injured was taken to Primary Health Center, Jalalkheda. There doctors found that he was having head injury, bleeding and trauma and he was referred to Government Medical College, Nagpur. During treatment in Trauma Centre, Vyankatesh expired on 05.08.2019. The post mortem report also shows that the cause of death is head injury. Eye witness Rashid Haider Shaha states that he is having pan kiosk and tea stall. His statement would show that on the day of incident, the deceased was proceeding from his pan shop. That time, applicant was present at the square and a dispute arose between them. However, this prosecution witness is unable to state on what count the dispute arose. His statement would show that after some time, he heard loud shouts of Vyankatrao. Therefore, he gave his attention to that point to notice that there was bleeding injury on the head of Vyankatrao and the applicant was present along with spade in his hand. Similar is the statement of one Giridhar Yedke.

The investigation is over. There is no criminal record at the discredit of the applicant. From the prosecution case, prima facie, it appears that the incident has occurred at the spur of moment. Further, from the statements of the eye witnesses, it is clear that the applicant did not take any disadvantage by repeating the assault.

In that view of the matter, it is quite possible that during trial, the offence may be scaled down to a lesser one. Hence, I pass the following order.

ORDER

- (i) The application is allowed.
- (ii) Applicant-Anil s/o Waman Bangar be released on bail in connection with Crime No. 219/2019 registered with Police Station, Jalalkheda, Dist. Nagpur for an offence punishable under Section 302 of the Indian Penal Code, on he executing P.R. Bond in the sum of Rs.25,000/- with two solvent sureties in the like amount.
- (iii) The applicant is directed not to enter territorial jurisdiction of village Bhishnur and shall stay away till the trial is culminated.
- (iv) The applicant is directed to furnish his residential address at the time of his release on bail. The learned Judge before whom the bail bonds will be executed shall direct the applicant to attend the nearest Police Station of his place of residence, once in a week i.e. on every Sunday between 11 a.m. to 02.00 p.m.

The application is disposed of.

JUDGE