

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

**CRIMINAL APPLICATION (BA) NO.41/2020**

Abhishek s/o Rajesh Warhadpande .vs. State of Maharashtra through PSO  
P.S. Wadi, 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. M. J. Khan, A.P.P. for non applicant-State.

**CORAM : V. M. DESHPANDE, J.**

**DATED : JANUARY 22, 2020**

This is an application under Section 439 of the Code of Criminal Procedure for regular bail. The applicant was arrested on 01.07.2019 in connection with Crime No.283/2019 registered with Police Station, Wadi, Nagpur for an offence punishable under Sections 302, 307, 341 read with Section 34 of the Indian Penal Code.

Heard Mr. Thakur, learned counsel for applicant and Mr. Khan, learned A.P.P. for non applicant-State. With their able assistance, I have gone through the entire charge-sheet which is filed on record.

The incident has occurred in the late night of 30.06.2019 and the FIR was lodged on 01.07.2019 at 00.45 Hrs. Thus, the FIR is lodged immediately. The FIR is lodged by Abhishek Mehare. Deceased is Vikram alias Vikki Chavan. As per the report, on 30.06.2019 at 10.00 O'clock in the night, first informant and deceased Vikki went to Payal Liquor Bar and consumed liquor. When they stepped outside

Payal Bar, they noticed an accident in between one four wheel and one motorcycle and the driver of the two wheeler was under the four wheel. The persons, gathered there, they were abusing the driver of Sumo vehicle. There the first informant and the deceased Vikki also went. The driver of Sumo vehicle was known to deceased Vikki. Therefore, Vikki asked one person by calling him as Arpit, that driver is his known person. Therefore, he should not assault on him, resulting into a quarrel between Vikki and the said Arpit. Thereafter, both, the deceased and the first informant went away from the spot. At about 12.30 hrs. in the night, at Chaturbhuj Layout, when they reached at the said place, at that time, they noticed Arpit and one of his friends standing there. Motorcycle of the first informant and the deceased was intercepted by Arpit and his friend and thereafter Arpit immediately took out a knife and assaulted on Vikki. As per the first information statement, when the first informant tried to rescue Vikki, that time, Arpit and his friend assaulted by fist and kick blows. Arpit assaulted the nose and neck of the first informant.

The name of the present applicant is not disclosed in the FIR and identity of the applicant is revealed during the investigation when the investigating officer recorded statement of Shyamrao Gabhane and Sunanda Hatwar which show that on 30.06.2019, they noticed a quarrel between present applicant along with his friend with a person who was wearing a red shirt. However, their statements do not show that the present applicant, who was

known to them, assaulted on the deceased by means of the weapon. Even as per the prosecution case, the first informant was knowing Arpit by his name and he is the person who has assaulted by means of knife. The learned A.P.P. would submit that the weapon is recovered on the memorandum statement of the applicant. The panchanama would show that it was lying in a place accessible to each and everyone. Therefore, at this stage, it may not have much importance.

Since the investigation is over and charge-sheet is already filed and there is no overt act attributed to the present applicant that he has assaulted by means of weapon in his hand coupled with the fact that there is no past criminal record against the applicant, in my view, the discretion can be exercised in their favour. That leads me to pass the following order.

### **ORDER**

- (i) The application is allowed.
- (ii) Applicant-Abhishek s/o Rajesh Warhadpande, be released on bail in connection with Crime No.283/2019 registered with Police Station, Wadi, Nagpur for an offence punishable under Sections 302, 307, 341 read with Section 34 of the Indian Penal Code, on he executing P.R. Bond in the sum of Rs.15,000/- with one solvent surety in the like amount.
- (iii) The applicant is directed to attend Police Station twice a month i.e. on every third Monday and fourth

Saturday and shall be with the investigating officer from 11.00 a.m. to 02.00 p.m., till culmination of the trial.

(iv) All the observations made in this order purely prima facie in nature. The learned Judge before whom the trial will be conducted shall not get influenced by any of the observations made in this order.

The application is disposed of.

**JUDGE**

kahale