

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

CRIMINAL APPLICATION (BA) NO.573 OF 2020

(Abhishek s/o Arun Kutafale ..vs.. State of Maharashtra, through PSO, PS Rajapeth, Amravati)

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

Court's or Judge's orders

Shri R.R. Vyas, Counsel for the applicant,
Shri P.S. Tembhare, Addl.P.P. for the non-applicant.

CORAM : ROHIT B. DEO, J.

DATED : 09-09-2020

Hearing was conducted through video conferencing and the learned Counsel agreed that the audio and visual quality was proper.

2. Heard.

3. Leave to amend the application is granted. The name of the applicant be corrected from 'Sadafale' to 'Kutafale'.

4. The applicant is incarcerated on the charge of killing his elder brother. The incident occurred on 04-3-2020 and the only eyewitnesses are the mother and father of the applicant and deceased.

5. The common thread in the version of the mother and the father is that the deceased was a drunkard who used to abuse his mother, father and the applicant, and

physically assault them. The version of the mother, who is the informant, is that on the fateful day the deceased was drunk and armed with a wooden rod. The deceased abused the informant and blamed her for not providing money to buy liquor. At this stage, the applicant came home and since the deceased was misbehaving with the informant, the applicant pushed the deceased in the house. According to the informant, there was a physical altercation in the house and when she entered the house, she found that the applicant had fatally injured his elder brother with knife.

6. The bail is opposed strongly by the learned Additional Public Prosecutor Shri P.S. Tembhare, who would submit that whatever be the conduct of the deceased there was no justification for the brutal assault. The submission is not without substance. However, it would be for the trial Court to ultimately ascertain the extent of the culpability, if at all, and then to arrive at an appropriate conclusion as regards the circumstances in which the applicant assaulted the deceased, if at all.

7. In so far as entitlement to bail is concerned, the applicant is aged 19 years. He has no criminal antecedents and, I am, therefore, inclined to grant bail, particularly considering the circumstances in which the alleged crime occurred. The apprehension of the prosecution that since the only witnesses are the parents

of the applicant, they would be compromised if the applicant is released on bail, can be addressed by directing the applicant not to enter the territorial limits of Amravati.

8. The application is allowed.

9. The applicant shall be released on bail on executing personal bond of Rs.25,000/- with a solvent surety of like amount.

10. Considering the prevailing circumstances, the surety shall be furnished within four weeks of the release.

11. The applicant shall not enter the territorial limits of Amravati till the conclusion of the trial, save and except for attending the dates of hearing or if the applicant is specifically permitted by the trial Court to do so for just and sufficient reasons.

12. The applicant shall not make any attempt to tamper with the evidence or to influence witnesses.

JUDGE

adgokar