

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

LD-VC-CRIMINAL APPLICATION (BA) NO.481 OF 2020

Jitesh @ Jivan s/o Nagorao Jadhav

..VS..

State of Maharashtra, Through Police Station Officer, Police Station Kurha, Tq. Tiosa, Dist.
Amravati.

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

Court's or Judge's orders

Mr. P. R. Agrawal, counsel for the applicant.
Mr. J. Y. Ghurde, APP for the non-applicant/State.

CORAM : AVINASH G. GHAROTE, J.

DATED : 13th JULY, 2020

Hearing was conducted through Video Conferencing and the learned Counsel agreed that the audio and visual quality was proper.

Heard Mr. Agrawal, learned counsel for the applicant and Mr. Ghurde, learned APP for the non-applicant/State.

The applicant seeks bail for the offences punishable under Sections 302, 307 and 452 read with 34 of the Indian Penal Code in Crime No.32 of 2020.

On 28.02.2020 there was an altercation between the applicant as well as his brother and parents on the one hand and the deceased on the other, which was pacified by the members of the community who were present at the spot of arrival of the palanquin of Banjara Community. Thereafter, in the night hours of the same day between 8.30 to 9.00 pm. the applicant along with his brother and parents is alleged to have assaulted the deceased by iron pipe and stick. The

statements of Bharat Jadhav, Lalita (wife of the deceased), Shrawan Rathod and Anita Jadhav, have been recorded, in which the assault by iron pipe is attributed to Ramdas the father and Lokesh the brother. The present applicant, was armed with a stick. The report of the Medical Officer filed along with the charge-sheet indicates only one head injury of 1 cm. X 1 cm., whereas the injury report by Suyash Hospital where the deceased was admitted also indicates one injury 3 cm. X 2 cm., bone deep. The post-mortem report indicates as many as six injuries, out of which only one injury is on the head. Ramdas, the grandfather and his wife Chhabutai, have already been released on bail by the Sessions Court by an order dated 13.04.2020. None of the witnesses attribute any assault by the applicant by iron pipe. The assault by iron pipe is attributed to Ramdas and Lokesh. It is also material to note that though the incident is dated 28.02.2020, and the victim passed away on 04.03.2020, no attempt has been made to record the Dying Declaration, though it is faintly suggested by learned APP for the non-applicant/State that the deceased was delirious. Charge-sheet has been filed on 18.05.2020 which indicates that the entire investigation is over.

I therefore, think that in the circumstances, this would be a fit case to enlarge the applicant on bail. Any apprehension by the learned APP about the applicant abusing his liberty can be taken care of by imposing stringent conditions. Hence, the following order is passed.

ORDER

1. The applicant Jitesh @ Jivan s/o Nagorao Jadhav, be released on bail in Crime No. 32 of 2020 registered with Police Station Kurha, Dist Amravati, for the offences punishable under Sections 302, 307 and 452 read with 34 of Indian Penal Code, on his furnishing a PR bond in the sum of Rs.50,000/- (Rupees Fifty thousand Only) with two solvent sureties in like amount.
2. The applicant shall not enter the village Salora Tasare, Tq. Tiosa, Dist. Amravati, till the trial is over.
3. The applicant shall not tamper with the witnesses nor threaten them in any manner whatsoever.

Needless to say that any observations made in this order shall not affect the trial adversely.

This order be communicated to the counsel appearing for the parties, either on the email address or on WhatsApp or by such other mode, as is permissible in law.

JUDGE