

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

Criminal Application (BA) of 2020 (L.D.V.C. No. 202 of 2020)

[Hiralal @ Baba Bharti Vs. The State of Maharashtra through P.S.O., P.S., Civil Lines, Akola, Tq. & Dist. Akola]

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Shri Anil Mardikar, Senior Advocate with Shri Ved Deshpande,
Advocate for the applicant
Shri Amit Madiwale, APP for the State/respondent

CORAM : M. G. GIRATKAR, J.

DATE : 12/06/2020

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

2. Heard learned Senior Advocate Shri Mardikar for the applicant.

3. This is an application for grant of bail. During the course of hearing, learned Senior Advocate orally prayed to amend the prayer clause to grant regular bail. Request is allowed.

4. The applicant is arrested by police for the offences punishable under Section 302 of the Indian Penal Code read with Section 3 punishable under Section 25 of the Indian Arms Act.

5. Learned Additional Public Prosecutor has strongly objected the application.

6. The applicant is a father of deceased. The applicant is aged about 75 years. He has partitioned his whole property. The deceased was residing separately. The deceased was criminal. Therefore, he was externed by the authority, out of Akola District. The deceased – son was threatening his father i.e. applicant. He was demanding money. On the day of incident, the deceased came to residence of the applicant along with sharp knife to kill him (applicant). From the perusal of statements of witnesses, it is clear that deceased was aggressor. He came to the applicant for demanding money with sharp edged weapon. The applicant was having a revolver. The applicant is having licence of the revolver. When deceased tried to kill the applicant, the applicant fired towards deceased and, therefore, deceased died. It appears that the applicant killed his own son only to save his life.

7. The statements of witnesses recorded by police clearly show that deceased threatening his father i.e. the applicant. On the day of incident, he came with sharp knife. Even the spot panchanama etc. show that deceased was found dead having knife in his hand. Whether the applicant has committed offence punishable under Section 302 of the Indian Penal Code or any other offence is to be decided on trial. Statements of witnesses show that deceased was aggressor. Deceased himself attempted to kill the applicant and to save his own life, the applicant

fired from his revolver. Looking to the statements recorded by police, the applicant is entitled for bail. Hence, following order.

8. Criminal Application is allowed.

9. The applicant be released on bail on furnishing P.R. bond in the sum of Rs. 25,000/- (Rupees Twenty Five Thousand Only) with one solvent surety of like amount on following conditions.

(a) The applicant shall not tamper the evidence of prosecution witnesses.

(b) The applicant shall attend the trial Court on due dates without fail.

(c) If the applicant commits breach of any condition, bail granted to him liable to be cancelled.

10. **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

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**Avinash
Wasnik**

Digitally signed by
Avinash Wasnik
Date: 2020.06.12
16:04:52 +0530