

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

CRIMINAL APPLICATION (BA) NO. 982 OF 2020
Rajkumar @ Baba Shamrao Pawar, Yavatmal (In jail)
Vs.
State of Maharashtra

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

Shri M.N. Ali, Advocate for the applicant.
Shri I.J. Damle, A.P.P. for the respondent/State.

CORAM : PUSHPA V. GANEDIWALA, J.

DATED : DECEMBER 02, 2020.

Heard.

2. The applicant is said to be arrested on 14/05/2020 in connection with Crime No. 400/2020 dated 13/05/2020 registered at Police Station Avdhootwadi, District Yavatmal for the offence punishable under Sections 302, 307, 143, 144, 147, 148, 323, 212 and 504 of the Indian Penal Code, 1860 and Section 4/25 of the Arms Act, 1959.

3. The allegation against the present applicant, as per the prosecution case, is that he instigated in commission of murder of the deceased Suryaprakash and started assaulting the deceased with fists and kick blows along with the co-accused, and during quarrel, other co-accused Sagar came from his house with knife and stabbed the deceased on his chest and abdomen.

4. Shri Ali, learned counsel for the applicant, submits that in the past crimes, apart from two crimes, he has been acquitted. Learned counsel further relied upon the judgment of the Hon'ble Apex Court in the case of Prabhakar Tewari Vs. State of Uttar Pradesh, reported at AIR ONLINE 2020 SC 96, wherein their Lordships in para 7 have observed as under :-

"1 to 6 XXXX

7. XXXX The offence alleged no doubt is grave and serious and there are several criminal cases pending against the accused. These factors by themselves cannot be the basis for refusal of prayer for bail.XXXX"

5. Shri Damle, learned A.P.P, strongly opposed the bail application on the ground of previous criminal antecedents of the applicant.

6. I have perused the application, reply affidavit filed on behalf of the State, and the chargesheet with the assistance of learned counsel appearing for both the parties.

7. At the outset, it appears that the present applicant has not used any weapon for assaulting the deceased Suryaprakash. A perusal of the postmortem report shows that all the severe injuries in column No.17 read with injuries in column No.21 are stab injuries on abdomen of the deceased Suryaprakash.

8. Considering the role attributed to the present applicant i.e. he only assaulted with fists and kick blows along with the co-accused, this Court is of the opinion that, on stringent conditions, he can be released on bail. Hence, the following order :-

ORDER.

- i. The Criminal Application is allowed.
- ii. The applicant be released on bail on his furnishing PR bond in the sum of Rs.50,000/- (rupees fifty thousand) with one solvent surety in the like amount.
- iii. The applicant shall not enter the Yavatmal city, till the conclusion of trial.
- iv. The applicant shall not tamper with the prosecution evidence.
- v. The applicant to attend the concerned police station on every first Thursday of each month between noon to 2.00 pm.

9. The Criminal Application is disposed of accordingly.

10. The aforesaid observations is only for granting bail to the applicant and it shall not come in the way of the trial Court during trial.

JUDGE