

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

CRIMINAL APPLICATION (BA) NO. 977 OF 2020

Gajanan Wamanrao Bhongal

Vrs.

The State of Maharashtra, thr. P.S.O., P.S. Shivaji Nagar, Khamgaon, Dist. Buldhana

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

Court's or Judge's Order

Shri A.D. Bhate, Adv. for the applicant.
Shri S.A. Ashirgade, APP for the non-applicant / State.
Shri Alok Daga, Advocate for the complainant.

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**CORAM : PUSHPA V. GANEDIWALA, J.
DECEMBER 18, 2020.**

CRIMINAL APPLICATION NO. 1053 OF 2020

Heard.

The application for grant of permission to
assist the prosecution is allowed.

The application is disposed of accordingly.

CRIMINAL APPLICATION (BA) NO. 977 OF 2020

Heard.

2. The applicant is seeking bail in Crime No. 441/2019 registered at Police Station Shivaji Nagar, Khamgaon, Dist. Buldhana, for the offence punishable under Sections 302 read with Section 34 of the Indian Penal Code and Sections 4 and 5 of the Arms Act, 1959 and Section 135 of the Maharashtra Police Act, 1951.

3. The allegation against the present applicant is that on 21/12/2019 at 1.00 a.m., there was a verbal

quarrel between the present applicant and deceased – Sachin and Vishal, as a result of which the present applicant along with his two sons – Arvind Bhongal and Ravindra Bhongal committed murder of deceased Sachin and Vishal by means of knives and wooden rafter.

4. Learned counsel for the applicant submits that the postmortem report shows as many as 30 injuries which are in the nature of incised and stab wounds, not a single injury is showing to have been inflicted with wooden rafter.

5. It is stated that the incident is the outcome of sudden provocation from the deceased persons. The applicant had no intention to commit murder. The deceased were habitual drunkard and used to create nuisance in the locality and on the day of incident they came to his shop and damaged the shop and the articles in it and during quarrel the incident happened. The spot panchnama supports the defence of the applicant.

6. Shri Ashirgade, learned APP assisted by Shri Daga, learned counsel on behalf of the informant strongly opposed the application on the ground that it is a case of brutal murder of two persons and there are as many as 30 injuries.

7. This Court in the case of **Sachin Santosh Benibagde Vs. State of Maharashtra** reported in **2019 ALL MR (Cri) 3213** in paragraph No. 6 observed that

“although there were number of injuries on the body of deceased, that alone cannot be a factor to deny bail to the applicant, particularly, when

he does not have any criminal antecedents.”

It is further observed that “the weapon used in the present case does not appear to have been brought from outside because the deceased was said to be a carpenter and it could very well have been an implement used by him.”

8. In the instant case, the facts appears similar inasmuch as, the applicant had also a carpentry shop and it is alleged that he used wooden rafter. This indicates that there was no intention on his part to commit murder although his sons used two knives for commission of the murder.

9. Considering the fact that the postmortem report does not show any injury by means of wooden rafter and considering the situation in which the murders committed and the specific role attributed to the present applicant coupled with the fact that the investigation is completed and the charge-sheet is also filed and furthermore there are no criminal antecedents against the present applicant and he was earning his livelihood by way of carpentry, this Court is inclined to grant him bail, however, on stringent conditions :

(i) The applicant – Gajanan Wamanrao Bhongal shall be released on bail on executing Personal bond of Rs. 50,000/- (Rs. Fifty thousand only) with one surety in the like amount.

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

(iii) The applicant to attend the concerned police station once in a month i.e. on every first Monday of the month between 12.00 noon and 2.00 p.m.

10. Needless to mention that the observations made in this application are strictly for deciding the present application of the applicant and the trial Court shall not get influenced by the same and shall be free to decide the matter on its merits.

11. The criminal application is disposed of accordingly.

JUDGE

D.S. Baldwa