

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

CRIMINAL APPLICATION (BA) NO. 35/2021

(Shankar @ Guru s/o Rajaram Patle vs. State of Maharashtra : Th. PSO
PS Gondia City, Dist. Gondia)

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

Court's or Judge's order

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Mr. Virat Mishra, Advocate for the applicant
Ms.Nivedita Mehta, APP for respondent-State

CORAM : MRS.SWAPNA JOSHI, J.

DATED : 16th February, 2021

The applicant has filed the instant Application under Section 439 of the Cr.PC. seeking regular bail for offence punishable u/ss. 302, 323, 143, 147, 148 and 149 of the Indian Penal Code, registered at Police Station Gondia City, in respect of Crime No.453/2020.

2. I have heard learned counsel for the respective parties. Perused the case papers.

3. The prosecution case in brief is that there was rivalry between two groups. On 10.6.2020 at about 1.30 pm, at Patel Square, a quarrel took place between them. It is case of the prosecution that in order to save son-Jaideep Yadav, the deceased intervened and at that point of time, he received injuries on his chest, due to which he died.

4. Learned Advocate for the applicant vociferously contended that the allegations against the applicant are that he was holding a wooden stick and with that stick he assaulted the

deceased, whereas the other accused persons assaulted the deceased by means of fist and kick blows. He submitted that the applicant had no intention to kill the deceased and only because the deceased intervened, he received the fatal injuries which were caused by all the accused persons, who were five in number. It is submitted that the offence may fall u/s 304 Part II of the IPC. He contended that out of those accused, two are already released on bail by the trial court.

5. Learned APP opposed the Application, contending that the applicant was holding the stick and he caused injuries to the deceased.

6. The post-mortem report shows the cause of death as "haemorrhage and shock as a result of injury to the vital organ lung". Prima facie, it appears that the death was caused due to the assault by all five accused, so also the deceased was an old person aged about 65-years. After hearing both sides and on a perusal of the case-papers and the reply filed by the prosecution, considering the manner in which the incident had taken place and the fact that charge-sheet has already been filed and other two accused persons have been released on bail by the trial court, I am of the opinion that the applicant can be released on bail by imposing certain conditions. Hence the order :-

ORDER:

The applicant-Shankar @ Guru s/o Rajaram Patle be released on bail for offence punishable u/ss 302, 323, 143, 147, 148 and 149 of the Indian Penal Code on his executing a PR bond in the sum of Rs. 30,000/- (rupees thirty thousand) with one or

two solvent sureties in the like amount, on the following conditions :-

- (i) He shall attend the concerned Police Station, on every 1st and 3rd Saturday of each month, between 11.00 and 2.00 pm, till the trial commences.
- (ii) He shall provide his residential address and cellphone number to the concerned Investigating Officer and shall not change the same without prior intimation to the Investigating Officer.
- (iii) He shall not tamper with the prosecution witnesses in any manner.
- (iv) He shall keep himself away from the limits of area where the complainant and other witnesses are residing.
- (v) Two consecutive absence without reasonable cause will entail the prosecution to move for cancellation of bail.
- (vi) Any observations made in this order are only for granting bail to the applicant and it shall not come in the way of the trial Court, during trial.

Criminal Application stands disposed of.

JUDGE

sahare