

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

CRIMINAL APPLICATION [BA] NO. 128/2021.

Gajanan Vishnuji Ingole.

-VERSUS-

State of Maharashtra.

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders

Shri S.S. Sohani, Advocate for the Applicant.
Shri M.K. Pathan, A.P.P. for the Non-applicant.

CORAM : VINAY JOSHI, J.

DATE : JUNE 11, 2021.

Heard learned Counsel for the parties
through video conferencing.

2. The applicant is seeking regular bail in
connection with Crime No. 12/2020 registered with
Balgaon Police Station, Amravati for offence
punishable under Section 302 read with Section 34
of the Indian Penal Code. The bail is claimed on
usual grounds. Besides that, the learned Counsel
for the applicant would submit that the incident as
emerges from the statement of eye witnesses, no

2

where discloses that it was a pre-meditated attack. It is submitted that the incident was an outcome of a sudden quarrel and therefore, it cannot be said that the applicant was aggressive. Moreover, it is submitted that the applicant, as well as the deceased were under influence of liquor and therefore there was no intention on the part of the applicant to kill the deceased. According to the learned Counsel for the applicant at the most the incident would fall under Section 304 of the Indian Penal Code.

3. The State has resisted the bail by filing reply affidavit. The prosecution case as it emerges from the police papers has been briefly stated in the reply. Moreover, it is contended that it is a case of direct evidence where the applicant has repeatedly dealt blows on the head of the deceased, resulting into his death.

4. At the instance of a report lodged by one Sunil on 10.01.2020, a crime came to be registered. The informant stated that on account of death of his

3

daughter, the deceased Anil came to his house along with both the accused, who are related to each other. On 09.01.2020 around 8 p.m. the deceased and both the accused were sitting in the court yard. All three have consumed liquor and they were quarreling with each other. The informant took dinner and after hearing shouts, he came out of his house and saw that the applicant Gajanan was beating the deceased on his head by means of a wooden bat [perhaps a cricket bat], and the co-accused Tulsidas was beating the deceased Anil by fists blows and kicks. Similar are the statements of other eye witnesses who are family members of the informant.

5. The learned Counsel for the applicant has invited my attention to the injury certificate of the applicant which discloses that in the said incident the applicant also sustained abrasion. Moreover, certain portion of arrest panchnama was shown, wherein it has been mentioned that the applicant had fresh injury at his nose and covert

4

injury at his knee. The applicant allegedly stated that he sustained injury in the scuffle with the deceased. Though it is argued that all of them have consumed liquor, however, the statements are quite clear that the applicant has repeatedly dealt blows on the head i.e. on vital part of the body of the deceased by means of a wooden bat.

6. Post mortem notes disclose that there are 4 injuries on the head i.e. temporal region, side of neck, below ear etc., and cause of death is due to head injury. Though it is submitted that there was no intention on the part of the applicant, however, I am afraid to make any comments on the said aspect at this premature stage. The co-accused Tulshidas is released on bail, however, the role ascribed to him is of beating by fists blows and kicks. The incident took place during night hours of 09.01.2020, while on the following day the FIR is lodged with detail account of vital role played by the applicant. The offence is of serious nature, which may attract punishment upto death. Notably,

5

the injured died in close proximity due to head injury. Having regard to the all these circumstances, I am not inclined to grant bail to the applicant, hence, Criminal Application is rejected.

Rgd.

JUDGE