

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**NAGPUR BENCH, NAGPUR****CRIMINAL APPLICATION (BA) NO.196/2021**

Madhav s/o Tulshiram Kavhar .vs. State of Maharashtra, through PSO P.S.
Washim (Rural), Tq. Dist. Washim.

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

Court's or Judge's orders.

Mr. D. G. Dhoble, Advocate for applicant.
Mr. S. M. Ukey, A.P.P. for non applicant-State.
Mr. S. I. Ghatte, Advocate Assisting the Prosecution.

CORAM : V.M. DESHPANDE, J.

DATED : APRIL 1, 2021

Criminal Application (APPP) No. 592/2021

Hearing was conducted through video conferencing and the learned counsel agreed that the audio and visual quality was proper.

This is an application filed by complainant-Manohar Vishnu Kavhar for assisting the prosecution.

The application is allowed. Applicant is permitted to assist the prosecution.

The application is disposed of.

Criminal Application (BA) No.196/2021

This is an application for grant of regular bail. The applicant is arrested in connection with Crime No. 522/2020 registered with Police Station, Washim (Rural) for an offence punishable under Section 302 of the Indian Penal Code. The date of incident is 15.11.2020. The FIR is recorded on 16.11.2020 in view of the oral report given by Manohar Vishnu Kavhar, the son of the deceased Vishnu. It is clear from the FIR that the present applicant and the deceased are related with each other and it appears that the incident has

occurred because the deceased failed to bring brother of the applicant at Dhaba as asked for. As per the FIR, on 15.11.2020 at about 7.55, the applicant came to the house of the deceased and started abusing. In spite of the repeated requests made by the deceased, he was pushed away by the present applicant and ultimately the applicant gave a fist blow on the chest of the deceased, resulting into his death.

The investigating officer has completed the entire investigation and charge-sheet is already filed. The applicant is in jail from 16.11.2020. According to the learned A.P.P. and the learned counsel for the first informant, the applicant was knowing that previously angioplasty on the deceased was performed and in spite of the knowledge he has given fist blow on his chest, resulting into his death.

Learned counsel for the applicant, has invited my attention to page no.122 of the compilation, which is a communication given by Mr. Dhage, Medial Officer, General Hospital, Washim to Police Station Officer, P. S. Washim, in which he has stated that the deceased may have expired due to heart disease. However, he has reserved the final opinion, for the chemical analyser's report.

Admittedly, the applicant is not having any past criminal record. The applicant has not used any weapon. Even it is not the case of the prosecution that the applicant has repeatedly given fist blows. As per the prosecution case, the applicant has given fist blow on the chest. Whether the applicant was knowing that giving fist blow would result into the death, is the point that would be decided in the trial.

In view of above, it is quite possible that the offence may be reduced to the lesser offence. Since the applicant is in jail on 16.11.2020 and the charge is not framed, looking to the totality of the circumstances, I am of the view that the applicant can be released on bail. Hence, I pass the following order.

ORDER

- (i) The application is allowed.
- (ii) Applicant-Madhav Tulshiram Kavhar, be released on bail, in connection with Crime No.522/2020 registered with Police Station, Washim (Rural) for an offence punishable under Section 302 of the Indian Penal Code, on he executing P.R. Bond in the sum of Rs.10,000/- with one solvent surety in the like amount.
- (iii) The applicant is directed to attend Police Station, Washim once in 15 days i.e. on the first and the last Saturday of every month between 03.00 p.m. to 05.00 p.m. till the trial is over.
- (iv) The applicant is directed not to extend any types of threats to any of the prosecution witnesses.

The application is disposed of.

JUDGE

kahale