

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

CRIMINAL APPLICATION [BA] NO. 269/2021.

Amarnath Nandlal Yadav

-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

Ms.M.N. Hiwase, Advocate for the Applicant.
Shri N. Rode, A.P.P. for the Non-applicant.

CORAM : VINAY JOSHI, J.

DATE : JUNE 17, 2021.

Hearing was conducted through Video
Conferencing.

2. The applicant came to be arrested by Khaperkheda Police Station, District Nagpur in connection with Crime No.517/2020 for the offence punishable under Sections 302, 307 read with Section 34 of the Indian Penal Code. The applicant is seeking bail on the ground of innocence, false implication etc. Besides that the learned Counsel for the applicant would submit that even as per police papers, the incident, if any, was not pre-planned and at the most it

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was a reaction in self-defence. Of course, this submission was made with a caveat by denying the involvement of the applicant. It is submitted that the sole eye witness Zuber has not specifically stated the role played by the applicant, and therefore, after completion of investigation his detention is unwarranted.

3. The State has resisted the bail by filing reply-affidavit. It is contended that the applicant and three others had assaulted the deceased Lali by means of rod, sticks as well as caused grievous hurt to Zuber, who went for the rescue of the deceased. Considering the nature of allegations and injuries sustained by the deceased and injured, bail is prayed to be rejected.

4. The informant who is mother of the deceased has lodged a report regarding the occurrence. It is the prosecution case that on 19.08.2020, deceased Lali was beaten by the applicant, his brother, father and one Siddhnath. At that time brother of the deceased namely Zuber went to the rescue of the applicant, however, he was also beaten by the applicant and others.

5. The informant is not the eye witness to the

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occurrence. She stated that on that day around 5 p.m. after hearing shouts she went near the house of the accused and found that the deceased Lali was lying in a pool of blood. Moreover, Zuber was also lying in injured condition. Admittedly injured Zuber is the only eye witness to the occurrence.

6. With the assistance of both the sides, the entire statement of Zuber has been gone into. He has stated that on the date of occurrence, deceased Lali was under influence of liquor. On that day, around 4.30 p.m., there was a scuffle between the deceased with the applicant and his father. After half an hour, deceased Lali went to the house of the accused with an intention of quarreling, which is evident from the statement itself. The injured Zuber has followed Lali by perceiving that Lali was about the quarrel. He saw that the co-accused Siddhnath was holding iron rod, whilst the applicants' father Nandlal was holding a stick. The witness has not stated that the applicant was holding any weapon, however, he made a comprehensive statement that all three were beating the deceased. Further it is his statement that the applicant Amarnath dealt a stick blow on the head of

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the injured Zuber and later on tried to rescue Zuber when his brother started to assault. The statement further indicates that on the very day, after taking treatment, Zuber went to Mayo Hospital to see his brother who was found to be dead.

7. The learned counsel for the applicant has canvassed that the entire incident is in two parts. Initially around 4.30 p.m. there was a scuffle in between the deceased Lali with the applicant, his father and one Siddhnath. It is pointed out that after separating said quarrel, Lali again went near the house of the applicant for raising quarrel. At this point, it is submitted that there was no premeditated attack, since the deceased himself went to the house of the accused with an intention to quarrel. The learned counsel for the applicant has also invited my attention towards the injury certificate of the applicant to contend that the applicant received injury in the sudden attack and in defence, he might have reacted. The statement of Zuber does not disclose any specific role of the applicant Amarnath, except an omnibus statement that all three were beating. It can be said so because as regards co-accused Nandlal and Siddhnath are

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concerned, Zuber has specified that both were holding iron rod and stick respectively at the relevant time. While submitting that the applicant never intended to beat, it has been pointed from the statement of Zuber that after initial blow to Zuber when the applicant's brother started to beat Zuber, the applicant has rescued Zuber.

8. The submission that the incident may be an outcome of sudden quarrel or perhaps reaction in defence, prima facie bears consideration. No sharp edged weapon has been used in the crime. Investigation is complete and charge sheet has been filed. The trial will take its own time for disposal according to law. Admittedly there are no criminal antecedents against the applicant. Since both the sides are staying in the same vicinity, the applicant can be released by putting some stringent condition. In view of that following order is passed.

- (i) Criminal Application is allowed and disposed of.
- (ii) The applicant / accused – Amarnath Nandlal Yadav be released on bail in connection with Crime No. 517/2020 registered with Khaperkheda Police

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Station, District Nagpur for offence punishable under Sections 302, 307 read with Section 34 of the Indian Penal Code on his furnishing P.R. Bond of Rs.25,000/- with one or two sureties in the like amount.

- (iii) The applicant/accused shall not enter into the territorial limits of Saoner Taluq till the conclusion of the trial.
- (iv) The applicant /accused shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case, as also shall not tamper with the evidence.
- (v) Pending applications if any, stands disposed of.

JUDGE

Rgd.