

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

CRIMINAL APPLICATION (BA) NO. 512 OF 2021

(Jaydeep s/o Lilulal Yadao ..vs.. State of Maharashtra, through PSO, PS Gondia City, Gondia)

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

Court's or Judge's orders

Mr. R.M. Daga, Counsel for the applicant,
Mrs. Kalyani Deshpande, Addl.P.P. for the non-applicant/State.

CORAM : ROHIT B. DEO, J.

DATED : 05-07-2021

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

2. The applicant is seeking bail in connection with Crime 555/2020 registered with Police Station Gondia City, District Gondia for offences punishable under Section 302 read with Section 34 of the Indian Penal Code and Sections 4 and 25 of the Indian Arms Act.

3. The deceased was an accused in the murder of the applicant's father and the prosecution case is that on the evening of the release of the deceased on bail, he was assaulted and done to death by the applicant and the two co-accused.

4. Mr. R.M. Daga, learned Counsel for the applicant would submit that the first informant, who is the mother of the deceased, is not an eyewitness and that she

reached the spot after the incident. Mr. R.M. Daga did refer to the statements of other eyewitnesses.

5. At this stage, it is not necessary and would be inappropriate to minutely evaluate the material on record as if a mini trial is conducted.

6. Broadly there does appear to be material on record to indicate that the applicant assaulted the deceased with a stone and after the deceased fell down, accused 2 inflicted stab injuries and before fleeing accused 3, who is a juvenile-in-conflict, dealt the final blow, again with the stone.

7. While there is indeed material to *prima facie* show that the applicant struck the first blow with the stone, at this stage, the possibility that the incident was not the outcome of a pre-planned conspiracy or design and that the anger and hatred spilt over leading to the death of a person who was an accused in the murder of the applicant's father, cannot be ruled out.

8. It is not even the case of the prosecution that the applicant has criminal antecedents. While the learned Session Judge does observe that releasing the applicant on bail may lead to further crimes, there is no material on record to so suggest. In any event, the apprehension of the prosecution can be allayed by imposing stringent

conditions.

9. The application is allowed.

10. The applicant be released from custody subject to the following conditions :

(i) The applicant shall execute the personal bond of Rs.25,000/- with a solvent surety of like amount.

(ii) The applicant shall not enter the territorial jurisdiction of Gondia Municipal Council except to appear before the trial Court, till the eyewitnesses are examined in the trial. The applicant is put on notice that any breach of this condition may entail in cancellation of bail, nor shall any attempt be made to influence the witnesses.

(iii) The applicant shall not indulge in any criminal activity while on bail.

11. The application is disposed of accordingly.

JUDGE

adgokar