

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

Criminal Application (BA) No. 560 of 2021

[Arvind Gajanan Bhongal ..vs.. State of Maharashtra through P.S.O., Shivaji Nagar P.S. Khamgaon,
Dist. Buldhana]

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

Court's or Judge's orders

Mr. A. D. Bhate, Advocate for the applicant
Mr. N. S. Rao, APP for the State/non-applicant
Mr. A. H. Daga, Advocate to assist the prosecution

CORAM : ROHIT B. DEO, J.

DATED : 13-08-2021

The applicant is arraigned as accused 3, along with his father Gajanan and brother Ravindra in Crime 0441/2019 registered with Police Station, Shivaji Nagar, Khamgaon, Dist. Buldhana for the offence punishable under Sections 302 read with Section 34 of the Indian Penal Code and is in custody since 21-12-2019.

2. The crime is registered on the basis of report lodged by Mr. Sambhajirao Bapurao Deshmukh. The gist of the report is that Sachin Rameshrao Deshmukh, who is a friend of the informant's son Vishal, informed that at 1.00 p.m. on 21-12-2019, Vishal and his friend Sachin Pawar had an altercation with applicant Arvind and

co-accused Ravindra. The report states that Sachin Rameshrao Deshmukh conveyed to the informant that Vishal threatened to remove the encroachment allegedly committed by applicant Arvind and co-accused Ravindra on the public road and in the altercation co-accused Ravindra assaulted Vishal Deshmukh with knife and applicant Arvind assaulted Sachin Pawar with tile. The role attributed to co-accused Gajanan is assault with wooden log. Both Vishal Sambhaji Deshmukh and his friend Sachin Pawar succumbed to injuries suffered.

3. The statement of Sachin Rameshrao Deshmukh is recorded on 22-12-2019. The gist of the statement is that on 20-12-2019 at 9.30 p.m., he and two deceased consumed liquor and riding triple seat on motorcycle went to the furniture shop of Gajanan Bhongal. The witness states that deceased Vishal Deshmukh woke up co-accused Gajanan and picked up a quarrel on the issues of alleged encroachment etc. Co-accused Gajanan assured deceased Vishal Deshmukh that he would advise his son appropriately. The witness then states that he

went to the railway station canteen to purchase cigarette and pan and while returning, Vicky Pardhi and Shekhar Dharamkar informed him of the murders.

4. The statement of Ajay, who according to the prosecution is an eye witness, is recorded more than 15 days from the date of the incident. He claims to have seen Ravindra assaulting deceased Vishal Deshmukh with knife and inflicting multiple wounds. The role attributed to Gajanan is assaulting both Vishal Deshmukh and his friend Sachin Pawar with wooden rafter/log and the only role attributed to the applicant is assaulting Sachin Pawar with tile.

5. Several witnesses stated in unison that on the fateful day, the two deceased consumed liquor and vandalized shop of Gajanan Bhongal and also assaulted him and that the sons of Gajanan Bhongal retaliated.

6. This is not a stage to make any definite observation on the genesis of the incident. However, I am satisfied that a case for bail is made out insofar as

applicant Arvind is concerned. Perusal of the postmortem report shows that deceased Sachin Pawar, whom the applicant allegedly assaulted with tile, suffered several stab wounds which caused death. Even according to the alleged eye witness, it was co-accused Ravindra who was armed with knife and the only role attributed to the applicant Arvind is assaulting Sachin Pawar with tile. The possibility that the deceased were the aggressors apart, considering the limited role attributed to the applicant, a case for bail is made out.

7. The application is allowed subject to the following conditions.

(a) The applicant be released on furnishing PR bond of ₹ 16,000/- (Rupees Sixteen Thousand) with solvent surety of like amount.

(b) The applicant shall not tamper with the evidence or make any attempt to influence the witnesses, directly or indirectly.

(c) The applicant shall not leave the country without the permission of the jurisdictional Court.

JUDGE

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