

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

Criminal Application (BA) No. 538 of 2021

[Rajendra S/o Jagan Shegar ..vs.. State of Maharashtra, through P.S.O. Borkhedi, 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. Vivek Awchat, Advocate for the applicant
Mr. N. S. Rao, APP for the State/non-applicant

CORAM : ROHIT B. DEO, J.

DATED : 13-08-2021

The applicant is accused of murdering his father in the late evening hours of 6-12-2020.

2. On the basis of report lodged by brother of deceased Babajan, Crime No. 465/2020 for offence punishable under Section 302 read with Section 34 of the Indian Penal Code is registered with Police Station, Borkhedi, District Buldana against the applicant and his mother.

3. I have perused the material on record.

4. There is overwhelming material on record to show, *prima facie*, that the applicant assaulted his father on the neck with axe which assault led to instantaneous

death. The blood stained axe is recovered and seized from the applicant pursuant to memorandum under Section 27 of the Indian Evidence Act. The other incriminatory material is the extra-judicial confession made to the witnesses.

5. The learned counsel for the applicant would submit that the assault was not premeditated and even according to the first informant, the deceased was in the habit of consuming liquor and there were frequent quarrels on that issue.

6. The fact that the father consumes liquor is not reason for the son to murderously assault him with axe. In any event, the circumstances in which the father was brutally done to death would be for the trial Court to look into.

7. No case is made out for exercise of discretion, particularly since the witnesses are related to the applicant and the possibility that he would in a position to influence them cannot be ruled out.

8. The application is dismissed.

9. If there is no effective hearing in the trial in the next eight months, the applicant shall be entitled to approach this Court afresh for grant of bail, provided, the failure to conduct effective hearing is not attributable either to the applicant or to co-accused.

JUDGE

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