

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

CRIMINAL APPLICATION (BA) NO. 550 OF 2021

(Sudhir s/o Mahadu Warkade ..vs.. State of Maharashtra, through PSO, PS Gobarwahi, District
Bhandara)

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

Court's or Judge's orders

Mr. K.S. Motwani, 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 respect of Crime 180/2020 registered with Gobarwahi Police Station, District Bhandara for offences punishable under Sections 302 and 201 of the Indian Penal Code.

3. The learned Counsel Mr. K.S. Motwani for the applicant would submit that the investigation is complete and the charge-sheet is filed.

4. Adverting to the material on record, Mr. K.S. Motwani would submit that the motive which is attributed to the applicant for committing the alleged fatal assault is tenuous in the sense that the alleged untoward incident occurred five years prior to the

assault.

5. The submission canvassed by Mr. K.S. Motwani is noted only as a matter of courtesy to the learned Counsel. In the teeth of direct evidence, the motive ordinarily pales into insignificance.

6. In the case at hand, there are eyewitnesses who state that the applicant assaulted the deceased with axe.

7. The eyewitnesses apart there are several witnesses including the informant, one Shankar, Mrs. Champabai and Mrs. Kusumbai who vouched for a oral dying declaration implicating the applicant as the assailant.

8. The weapon of offence is recovered at the behest of the applicant. The medical evidence on record is consistent with the version of the eyewitnesses.

9. I am more than satisfied that the three eyewitnesses and the several witnesses who speak of the dying declaration, coupled with the discovery of the weapon, cumulatively constitute more than adequate *prima facie* material to link the applicant with the crime.

10. Considering the gravity of the offence and the nature of the evidence, no discretion can be exercised in

favour of the applicant.

11. The application is dismissed.

JUDGE

adgokar