

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

CRIMINAL APPLICATION (BA) NO.626 OF 2021

(Nitesh s/o Nagorao Thakre Vs. State of Maharashtra thr. PSO PS Katol, Tah. Katol,
Dist. Nagpur)

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

Court's or Judge's orders.

Mr. A.R. Prasad, Advocate for Applicant.
Ms. T.H. Udeshi, APP for Non-Applicant/State.

CORAM: ROHIT B. DEO, J.

DATE: 14th JULY, 2021.

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

2. Crime 75/2021 is registered with Police Station Katol, Tahsil Katol, District Nagpur for offence punishable under Sections 302 and 506 of the Indian Penal Code on the allegation that the applicant assaulted his elder brother Roshan by stick and caused his death.

3. While the incident occurred on 17.02.2021 the report is lodged by the mother on 19.02.2021.

4. Even according to the report Roshan was addicted to liquor and on the day of the incident he came home and started misbehaving with the first informant.

The applicant pushed him out the house and when Roshan refused to back-down, the applicant picked up a stick from the house and dealt blows on the head and other parts of the body. The death, according to the PM report, is due to cardiac arrest suffered due to injuries.

5. It would not be necessary to minutely examine the contention of the learned counsel Mr. Prasad that even if the allegations are ultimately proved, the offence will not fall under Section 302 of the IPC. Whether the applicant was provoked or the incident happened in the heat of the moment etc. are all matters within the domain of the trial court.

6. However, considering that the applicant is relatively young and aged 23 years, that there are no criminal antecedents and there is no material on record to suggest that he is a flight risk, I am inclined to grant bail.

7. While I am inclined to grant bail, the apprehension of the prosecution expressed by the learned APP Ms. Udeshi that the applicant may influence the witnesses, needs to be allayed. The first informant, who is the mother of the applicant and the deceased, does speak of threat issued which according to her delayed the report. The witnesses are family members. In such a situation, it is quite possible that the applicant may influence the witnesses. Mr. Prasad would submit that the applicant shall

not enter the territorial limits of village Isapur, which ought to allay the apprehension of the prosecution.

8. The application is allowed.

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

- (i) The applicant shall execute the personal bond of Rs.15,000/- with a solvent surety of like amount.
- (ii) The applicant shall not enter the territorial limits of village Isapur till the conclusion of the trial, unless specifically permitted to do so by the jurisdictional Court, for just and exceptional reasons.
- (iii) The applicant shall not make any attempt to influence the witnesses, directly or indirectly.
- (iv) The applicant shall attend the Court hearing regularly.
- (v) The applicant shall not leave the country without permission of the jurisdictional court.
- (vi) The applicant shall, within the next 72 hours from release from prison, forward/supplied to the Investigating Officer his current address and telephone

numbers and shall keep the Investigating Officer updated of any change.

10. The application is disposed of accordingly.

JUDGE

NSN