

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

CRIMINAL APPLICATION (BA) 791 OF 2021

(Abdul Rashid s/o. Abdul Nabi Saudagar...vs..State, thr PSO, PS Asegaon, Amravati
(Gramin))

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

Court's or Judge's orders.

Mr. A.K. Bhangde, counsel for applicant.
Mr. N.R. Rode, APP for non-applicant/State.

CORAM: ROHIT B. DEO, J.

DATE:26.08.2021.

Heard.

2. The applicant is seeking bail in connection with Crime 40/2020, registered with Police Station, Asegaon, Dist. Amravati, for the offences punishable under sections 302 and 504 of the Indian Penal Code ("IPC").

3. The accusation is that the applicant killed his young son by striking a blow of iron spade on his head.

4. The incident occurred at 7.30 p.m. on

4.3.2020. The statements of the witnesses indicate that the applicant was habituated to liquor, he was not working for livelihood and was in the habit of stealing household items. The genesis of the altercation is that the son of the applicant Mr. Samir found his mobile missing, suspected the applicant and called upon him to return the mobile. The wife of the applicant too made a similar request. Enraged, the applicant attempted to assault his wife, she evaded the blow, and then the applicant assaulted his son Mr. Samir on the head with spade.

5. The statements of the witnesses are consistent. The learned counsel for the applicant invites my attention to the injury certificate and then to the post mortem report to buttress the submission that the offence may not fall under section 302 of IPC. The submission is that a single blow was struck.

6. I have given due consideration to the submission. The fact that the death was caused by a

single blow, is by no stretch of imagination decisive. A single blow struck on a vital part of the body is sufficient to prove either the intention to cause death or, at any rate, knowledge that by the act, death is likely to ensue. Be that as it may, it would ultimately be for the trial Court to reach an appropriate conclusion, after the evidence is adduced.

7. Apart from the fact that the accusation is serious, the material on record is prima facie overwhelming, the prime witness is the wife of the applicant and the other eye witness are closely related to the family. In this view of the matter, the possibility that the applicant may be in a position to influence the witnesses, is a real possibility. It is further pointed out by the learned APP Mr. N.S. Rao that the applicant has criminal antecedent and an offence punishable under section 324 IPC is already registered in the ye 2015 at the instance of his wife.

8. It is not possible to exercise discretion in

favour of the applicant.

9. The Application is dismissed.

Judge

Belkhede