

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

Criminal Application (BA) No. 790 of 2021

(Suresh S/o Tarachand Borkar **Vs.** State of Maharashtra through P.S.O. New Kamptee, Nagpur)

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

Court's or Judge's orders

Mr. Amol Hunge, Advocate h/f Mr. O. K. Masurke, Advocate for the
applicant

Mr. N. R. Rode, APP for the State/non-applicant

CORAM : ROHIT B. DEO, J.

DATED : 24-08-2021

The applicant is accused of causing death of his
elder brother, whom he allegedly assaulted with knife.

2. On the basis of report immediately lodged by wife
of the deceased, New Kamptee Police Station registered
offence punishable under Section 302 of the Indian Penal
Code vide Crime 389/2019.

3. Perusal of the material available in the charge-
sheet reveals that there is overwhelming *prima facie* case
to link the applicant with the crime.

4. The incident occurred at the house comprising
four rooms out of which the applicant was occupying
two, the elder brother was occupying one and the

deceased was residing in one room along with his wife and son Raja.

5. On the fateful day, the wife of the deceased had gone to the Church and when she returned home at 12.00 p.m., she saw that her husband was being taken in an auto to the hospital. Her husband was seriously wounded and when she asked him the cause of the injury, he disclosed that it was his brother Suresh – the applicant herein who stabbed him.

6. The incident or at any rate substantial part of the incident is witnessed by Raja, who is son of the deceased. A submission is canvassed, as was also done in the Sessions Court, that Raja is not a reliable witness since he suffers from near 100% visual disability. There is absolutely nothing in the charge-sheet to substantiate the submission and moreover, the learned Sessions Judge who rejected the bail had an opportunity of interacting and observing Raja who was summoned in the Court.

7. Considering the brutality of the assault and the

fact that the applicant would be certainly in a position to tamper with the evidence and influence the witnesses, the applicant is not entitled to bail.

8. The application is dismissed.

JUDGE

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