

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

Criminal Application (BA) No. 773 of 2021

[Vikky @ Satish S/o Vilas Telgote **..vs..** The State of Maharashtra through P.S.O., City P.S., Akot,
Tq. Akot & Dist. Akola]

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

Court's or Judge's orders

Mr. S. M. Awachar, Advocate for the applicant
Mr. N. S. Rao, APP for the State/non-applicant

CORAM : ROHIT B. DEO, J.

DATED : 16-09-2021

The accusation is that the applicant, who was under the influence of liquor, started abusing eye witness Safal in filthy language and then caught hold Safal's collar. Deceased Rohit, aged 22 years, attempted to rescue Safal by giving a jerk to the applicant's hand. The applicant whipped out a spearhead and delivered a blow on the left chest of Rohit which proved fatal. The force with which the blow was delivered, as is discernible from the postmortem report, is quite clear. The spearhead punctured the lung.

2. On the basis of report lodged by the father of the deceased, Crime 442/2019 came to be registered with Police Station, Akot City for offences punishable under Sections 302,

294 and 323 of the Indian Penal Code and Sections 4 and 25 of the Arms Act.

3. The applicant unsuccessfully tried to secure bail from the learned Sessions Judge. The learned Sessions Judge was not impressed with the submission that considering that a single blow was dealt following an altercation, the offence will not fall under the category of culpable homicide amounting to murder.

4. I have perused the material available in the charge-sheet and while the learned counsel for the applicant reiterates the submissions which did not find favour with the learned Sessions Judge, I am inclined to agree with the learned Sessions Judge.

5. It is not as if, there was fair or free fight. The applicant was the aggressor. He heaped abuses on the eye witness and then spit the water which he was drinking on the person of the eye witness. The deceased, as is quite natural, tried to protect his friend. The applicant was already armed with a spearhead which he plunged deep in the chest. *Prima facie*, this is not a case which would not fall under Section 302 of the Indian Penal

Code, if the material in the charge-sheet translates into admissible evidence.

6. The version of the eye witness is consistent. The weapon is recovered from the residence of the applicant pursuant to discovery under Section 27 of the Indian Evidence Act. Thus, there is overwhelming material on record to *prima facie* connect the applicant with the crime.

7. No case for exercise of discretion is made out.

8. The application is dismissed.

9. The trial Court is requested to expedite the trial.

JUDGE

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