

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

Criminal Application (BA) No. 761 of 2021

(Roshan Prakash Dhakde ..vs.. The State of Maharashtra through its P.S.O., Shirasgaon Kasba,
Th- Chandur Bazar, Dist. Amravati)

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

Court's or Judge's orders

Mr. N. R. Saboo, Advocate for the applicant
Mr. M. K. Pathan, APP for the State/non-applicant

CORAM : ROHIT B. DEO, J.

DATED : 14-10-2021

The applicant is the prime accused in Crime 294/2020 registered with Police Station, Shirasgaon Kasba, Tahsil Chandur Bazar, District Amravati for offence punishable under Section 302 read with Section 34 of the Indian Penal Code.

2. The deceased is Sudhakar Bhurmude. The prosecution case is that at 8.30 p.m. on 1-12-2020, the applicant and the two co-accused demanded money from Sudhakar to purchase liquor, Sudhakar refused to oblige, while the co-accused held Sudhakar, the applicant brutally assaulted Sudhakar with knife. Before succumbing to the grievous injuries suffered, Sudhakar disclosed to Kunal Bhurmude that he was stabbed by the applicant. It is Kunal, who has lodged the report.

3. Mr. Saboo, learned counsel for the applicant submits that there is no direct evidence and that the version of the eye witnesses is hearsay. The submission is contrary to record. Apart from the dying declaration, which is admissible under Section 32 of the Indian Evidence Act, witness Niranjan has seen Sudhakar lying on the ground and the applicant sitting on his chest with a knife. The blood stained knife is recovered and seized pursuant to statement under Section 27 of the Indian Evidence Act given by the applicant. The applicant was medically examined after the arrest. Certain injuries to the finger were noticed, which according to the prosecution are caused due to the knife attack launched by the applicant on Sudhakar. The assault is brutal as is discernible from the postmortem report.

4. It would also be relevant to note that there is material on record to show that two to three hours prior to incident, the applicant robbed a witness at knife point of the liquor bottle which the witness has purchased.

5. Considering the formidable material on record, the nature of accusation, the brutality of the assault and the propensity of the applicant to indulge in nefarious activities, no discretion can be exercised.

6. The application is dismissed.

JUDGE

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