

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

CRIMINAL APPLICATION (BA) NO. 842 OF 2021

(Vishal Narayanrao Moharle ..vs.. State of Maharashtra, through PSO, PS Hudkeshwar, Nagpur)

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

Court's or Judge's orders

Mr. C.B. Barve, Counsel for the applicant,
Mr. M.K. Pathan, Addl.P.P. for the non-applicant/State.

CORAM : ROHIT B. DEO, J.

DATED : 31-08-2021

The applicant is seeking bail in connection with Crime 328/2020 registered with Hudkeshwar Police Station, Nagpur for offences punishable under Sections 302, 307 and 120-B read with Section 34 of the Indian Penal Code.

2. The prosecution case is that the deceased Shubham Ganveer and accused Darshan Funde, who were residing in the same apartment alongwith others, had some altercation between 11-00 and 11-30 a.m. on 24-8-2020. The statements of witnesses reveal that Shubham kicked Darshan. It is the case of the prosecution that Darshan and the three co-accused hatched a conspiracy to kill Shubham. The accused, including the applicant herein came searching for Shubham between 2-00 to 2.30 p.m. Shubham had left for Wardha and when the accused were told that Shubham had left for Wardha, they followed Shubham to

Wardha. However, due to the lock-down restrictions, the police did not allow Shubham to proceed to Wardha and he was sent back from Butibori. Shubham returned to the flat at 5-00 p.m. It is the prosecution case that between 9-30 and 9-45 p.m. the accused assaulted Shubham with knife and inflicted as many as 17 injuries, out of which 14 are stab injuries.

3. The version of the eyewitnesses is consistent. The learned Counsel for the applicant submits that the role attributed to the applicant is assault with fists and, therefore, he is entitled to bail. I am not inclined to agree. It is obvious, and this is a *prima facie* observation, that the applicant played a prominent role in the conspiracy. All the accused came looking for Shubham in the afternoon and ultimately assaulted him at night with the intention of killing him. The eyewitnesses state that while Shubham was lying in the helpless condition and bleeding from the multiple stab wounds, the applicant was sitting on his shoulder and dealing fist blows. *Prima facie* there is more than ample material on record to show that the applicant played a major role in the conspiracy. In any event, this is not a case where the individual role played would be of any great significance. Every accused would be responsible for the merciless assault which caused death.

4. Considering the overwhelming material on

record, I am not inclined to grant bail. The application is dismissed.

5. It is clarified that every observation made for the limited purpose for deciding entitlement of bail and shall not prejudice the accused in the trial Court.

JUDGE

adgokar