

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

CRIMINAL APPLICATION (ABA) NO. 551/2021

(Sudhir S/o Laxminarayan Somani Vs. State of Maharashtra)

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders

Shri N. R. Saboo, Advocate for applicant.
Shri M. J. Khan, APP for non-applicant/State.

CORAM : VINAY JOSHI, J.
DATE : 07.09. 2021.

Heard.

2. In anticipation of arrest in Crime No. 73/2021 registered with the Police Station Ansing, District Washim for the offence punishable under Sections 302, 504 read with Section 34 of the Indian Penal Code.

3. At the instance of report dated 26.04.2021 lodged by wife of deceased – Hanuman, the Crime was registered. It is the prosecution case that on 23.04.2021 in the early hours, deceased – Hanuman went to the agricultural land of applicant -Sudhir Somani for some work and returned in the afternoon. Again in the evening, he went to the land of the applicant

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along with one Baban Kakade, but he did not return. The informant inquired with Baban Kakade, however he stated that deceased was under influence. On the following day, she went to the land of the applicant and found that deceased was lying unconscious in front of the shade erected in the field of the applicant. Informant asked the applicant, on which he said that other co-accused beat him at the instance of consumption of liquor. Since the clothes of deceased were full of mud, they were changed in her presence. The applicant and others arranged for vehicle to shift injured Hanuman to the hospital. While deceased was under treatment, he regain consciousness and disclosed that when he went to pay money, co-accused Ganesh Kakade kicked him and caused to fall from platform. Deceased also said that applicant also pushed him and then co-accused Raju Kakade, Madhav Kakade and Baban Kakade beat him by slap and fist blows. Deceased also disclosed that applicant gave two injections to him on earlier night. Thereafter, on the next day, Hanuman died while under treatment.

4. Learned counsel for the applicant would submit that besides mere push, no role was ascribed to applicant. Remaining co-accused who beat by slap and fist blows were already arrested

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and released on bail by this Court vide order dated 07.07.2021. Learned counsel for the applicant also took to me through the observation of this Court in bail order wherein it is expressed that whether the act of co-accused was intentional one is a matter of trial.

5. Perusal of postmortem notes discloses that cause of death is due to spinal cord injury i.e. injury to the cervical (C3, C4). Thus, apparently, due to spinal cord injury, perhaps may be by fall from height, Hanuman died. The allegations against the applicant is of giving push whilst about slap and fist blows against co-accused. Whether the act of accused amounts to intentionally causing homicidal death is matter for consideration.

6. While resisting bail, learned Additional Public Prosecutor would submit that as per First Information Report (FIR), the applicant has administered two injections to the deceased, however the cause of death is of death due to spinal cord injury i.e. injury to the cervical (C3, C4), therefore, *prima facie* there appears to be no relevance of said act. Perhaps that may be in the form of preventive action.

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7. It is submitted that the applicant caused to the change the clothes of deceased. It reveals that in presence of informant, the clothes were changed since there is reference that clothes of deceased were full of mud. The whole reading of First Information Report discloses that the applicant and other have tried to save the life of deceased. Nothing is to be seized at the instance of applicant. Moreover, the investigation is complete and charge-sheet is filed. Having regard to the limited role ascribed to the applicant, he can be directed to join the course of investigation by protecting his liberty. Hence, following order:-

(I) Application stands allowed and disposed of.

(II) In the event of arrest of applicant – Sudhir S/o Laxminarayan Somani, he be released on interim bail on his furnishing P.R. Bond of Rs. 25,000/- with one surety in the like amount.

(III) The applicant shall attend concerned Police Station as and when called.

(IV) The applicant shall not directly or indirectly make any inducement, threat or promise

to any person acquainted with the facts of the case,
as also shall not tamper with the evidence.

JUDGE

Gohane.