

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

CRIMINAL APPLICATION (BA) NO.1092 OF 2021

(Dhiraj s/o Dyaneshwar Ingle Vs. The State of Maharashtra thr. PSO PS Jalalkheda,
Tah. Narkhed, Dist. 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. R. Thakur, Advocate for Applicant.
Mrs. K. R. Deshpande, APP for Non-Applicant/State.

CORAM: ROHIT B. DEO, J.

DATE: 16th NOVEMBER, 2021.

The applicant is seeking bail in connection with Crime 36/2021 registered with the Police Station Jalalkheda, Tahsil Narkhed, District Nagpur for offences punishable under Sections 143, 147, 148, 149, 302, 326 and 307 of the Indian Penal Code.

2. The prosecution case is that the accused suspected that Purushottam Tayade was in illicit relationship with the wife of co-accused Janardan. The accused formed an unlawful assembly and assaulted Purushottam Tayade with stick and rod on 11.02.2021 at 08:30 p.m.

3. While there is no eye witness to the actual assault, the statement of Purushottam Tayade was recorded at the hospital on 13.02.2021 in which he stated that all the five accused assaulted him with stick and rod and that he

had already undergone abdomen surgery.

4. Purushottam Tayade expired on 18.02.2021 and the statement recorded is, therefore, admissible as dying declaration under Section 32 of the Indian Evidence Act. Other than the said dying declaration, statement of one witness is recorded more than two months of the incident in which he states to have witnessed a verbal altercation between the deceased and the applicant. The said witness has, however, not seen the assault.

5. Perusal of the postmortem report shows that one of the three injuries which the doctor opined, may have caused death is the rupture/shattering of spleen. It would ultimately for the trial Court to ascertain on the basis of evidence whether the previous surgery played any role in the death. I have granted bail to co-accused Shrawan Dhone and Nilesh observing that the investigation is complete and the charge-sheet is filed, and that it would be for the trial court to ascertain whether the previous surgery which the deceased underwent played any role in accelerating the death or causing the death.

6. The applicant has no criminal antecedents.

7. The application is allowed subject to the following conditions.

[a] The applicant be released on bail on furnishing

PR bond of Rs.16,000/- (Rupees Sixteen Thousand) with solvent surety of like amount.

- [b] The applicant shall not tamper with the evidence or make any attempt to influence the witnesses, directly or indirectly.
- [c] The applicant shall not leave the country without the permission of the jurisdictional Court.

JUDGE

NSN