

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

CRIMINAL APPLICATION (BA) NO.1121 OF 2021

(Pintu s/o Suresh Bendekar and another Vs. State of Maharashtra thr. PSO PS
Pachpaoli, Nagpur (City), 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, Advocate for Applicant.
Mr. M. K. Pathan, APP for Non-Applicant/State.

CORAM: ROHIT B. DEO, J.
DATE: 22nd NOVEMBER, 2021.

The applicants and nine others are accused of brutally murdering Shubham Sadavarte and causing injuries to witnesses Piyush and Pawan. The incident occurred on 05.12.2019. The motive which is alleged by the prosecution is that two days prior to the incident there was a physical altercation between the applicants, who are brothers, and the deceased since the motor-cycle driven by the deceased allegedly dashed against one of the applicants. According to the prosecution, and the version is substantiated by consistent statements, *inter alia* of the injured witnesses, on the fateful day while the deceased and the two injured witnesses were watching a cricket match at Bangladesh, which is an area near the Naik Talao at Nagpur, the applicants along with three co-accused came there on motor-cycles and under the pretext of putting a quietus to the bad blood lured them to place at the *khatik* (butcher) *mohalla*. It is the case of the prosecution that the accused

who took the victims at the *khatik mohalla* and the other co-accused who were waiting rushed at the scene started assaulting the deceased and the injured initially with fists and blows. The accused who were armed with iron rods and wooden rafters assaulted the deceased and the injured. The postmortem report reveals that the cause of death is head injury.

2. While five accused are juvenile, out of the remaining six accused, four are released on bail either by this Court or by the Sessions Court. Perusal of the orders reveal, that bail is granted to the said accused considering their limited role and the material on record.

3. In so far as the present applicants are concerned, I have no hesitation in observing, which albeit is a *prima facie* observation made only for the purpose of deciding the entitlement to bail, that the applicants appear to have orchestrated the gory murder. The applicants had the motive, the applicants were thirsting for revenge due to the previous altercation two days prior to the incident and master minded the assault. The deceased and the two injured were lured and trapped under the pretext of putting an end to the dispute. However, the material on record reveals that the entrapment was pursuant to well planned conspiracy and the deceased and the two injured witnesses were assaulted by an unlawful assembly which had a common object. In this view of the matter, it would not have been necessary for this Court to consider the submission that

the serious assault is not attributable at least to one of the applicants. However, since submission is canvassed by Mr. Barve, it would be appropriate to deal with the same.

4. The learned counsel Mr. Barve invites my attention to the statement of the injured Piyush Nandkishor Aagde. The injured states that the applicants Pintu and Jitesh Bendekar were armed with iron rods and they assaulted Pawan Dharmik and then Piyush Nandkishor Aagde. Immediately after such statement, the injured witness states that after the deceased collapsed due to wooden rafter blow inflicted by Akash alias Butraya, the others assaulted him with the weapons in their hands. Mr. Barve would submit that such version excludes the possibility that the applicants assaulted the deceased. The submission is noted only as a courtesy to the learned counsel. I am afraid no such inference can be drawn.

5. Mr. Barve would then emphasize the absence of blood stains on the iron rods and wooden rafter recovered from the applicants' residence. I note that the report of the chemical analyzer is awaited. That apart, in the teeth of direct ocular evidence on record, which clinchingly connects the applicants with the crime, the submission need not detain this Court, at least at this stage. It would ultimately be for the trial Court to consider the said, and similar other submissions, which are canvassed in support of bail.

6. It is not in dispute that the applicants have

criminal antecedents. That apart, considering the cold and diabolic manner in which the deceased and the injured statements were lured and trapped into accompanying the applicants and their accomplices and then brutally assaulted, no case is made out for grant of bail.

7. The application is dismissed.

JUDGE

NSN