

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

CRIMINAL APPLICATION (BA) 1247 OF 2021

(Ashwin s/o.Ashok Bagde..vs..State, thr PSO, PS Deolapar, District 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, counsel for applicant.
Mr. N.S. Rao, APP for non-applicant /State.

CORAM: ROHIT B. DEO, J.
DATE:15.12.2021.

Heard.

2. The applicant is seeking bail in connection with Crime 35/2021, registered with Police Station Deolapar, District Nagpur, for offences punishable under sections 302, 326, 504 read with section 34 of Indian Penal Code.

3. The applicant Ashwin and his brother Amol are arraigned as accused. The prosecution case in brief is that deceased Mr. Vishwas married the sister of the applicant, against the will of her family. Mr. Vishwas and his wife resided at Nagpur since Mr. Vishwas was serving at a petrol pump at Nagpur. However, on the fateful day, Mr. Vishwas had come to his native village to meet his mother, who is the informant.

4. The prosecution case is that the father of the applicant was constructing his house. A truck transporting the construction material came at the scene and unloaded the material in front of the house of the informant. Mr. Vishwas objected and asked the driver of the vehicle to call the owner of the material. Even according to the prosecution, when co-accused Amol came, he was abused by Mr. Vishwas, who asked Amol whether the place belongs to his father. The prosecution case is that Amol was armed with a stick and he tried to assault Mr Vishwas. Witness Mrs. Shobha prevented Amol from assaulting by Vishwas with stick. The applicant was behind Amol and he was armed with an iron rod with which he inflicted a singular blow on the head of Mr. Vishwas. Mr. Vishwas was admitted in the hospital in critical condition and he succumbed to injuries suffered, on 20.3.2021.

5. The submission is that the offence, at the highest, may fall under section 304 Part II IPC inasmuch as the incident occurred during the course of a sudden quarrel in the heat of passion. Moreover, a single blow was struck. I

am not inclined to express any positive observation on the said submission. Arguable as the submission is, ultimately the same would have to be decided on the basis of evidence on record.

6. Accused Amol is released on bail. In so far as the applicant is concerned, he has no criminal antecedents and it is not even the case of the prosecution that he shall not be available to face trial. The investigation is complete and the chargesheet is filed and I do not, therefore, consider further incarceration appropriate.

7. This application is allowed subject to following conditions:

(i) The applicant shall be released on bail on executing personal bond of Rs.25,000/- (Rupees Twenty Five Thousand) with a solvent surety of like amount.

(ii) The applicant shall not enter the territorial limits of village Hiwra Bazar, till the conclusion of the trial.

(iii) The applicant shall not make any attempt to

tamper with the evidence or to influence witnesses, directly or indirectly.

(iv)The applicant shall attend each date of hearing scrupulously.

(v)The applicant shall not leave the country without the permission of the Trial Court.

Judge

Belkhede