

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

Criminal Application (BA) No. 1296 of 2021

(Rajesh S/o Govindrao Mohture ..vs.. State of Maharashtra through P.S.O., Chandur Railway,
Dist. Amravati)

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

Court's or Judge's orders

Mr. Mahesh Rai, Advocate for the applicant
Mr. N. R. Rode, APP for the State/non-applicant

CORAM : ROHIT B. DEO, J.

DATED : 20-12-2021

Heard.

2. The case of the prosecution is that there was an altercation between the applicant and the deceased at 7.00 a.m. or thereabout on 16-4-2021. The deceased had used certain cables to tie the bamboos to erect a temporary shed since his daughter's marriage was to be solemnized on 21-4-2021. The prosecution case is that during the course of altercation, the applicant dealt a single blow with an iron pipe/angle on the head of the deceased which resulted in instantaneous death.

3. Perusal of the statement of wife of the deceased and statements of eye witnesses *prima facie* reveal that the applicant and the deceased were indulging in

exchange of abuses and threats. The deceased was holding a stick in his hands, which according to his wife was firewood. Be that as it may, there is sufficient material on record to *prima facie* hold that the applicant assaulted the deceased with the iron angle.

4. The submission canvassed is that even if, the prosecution case is assumed to be correct, there was no intention as such to cause death and, in any event, the unfortunate incident occurred due to sudden quarrel and in the heat of passion and, therefore, the offence at the highest, may fall under Section 304 of the Indian Penal Code, if at all. The extension of this submission is that considering that a single blow was inflicted, the offence may as well fall in Part II of Section 304, assuming that the prosecution is correct in its version. This submission is made without prejudice to the contention that the applicant is not involved and is falsely implicated.

5. It is common ground that a single blow was struck. The implication of the single blow is a matter of trial. However, it does appear that there was an ongoing quarrel and the incident occurred since the applicant

accused the deceased of stealing cable which was above the terrace of his house.

6. The applicant has no criminal antecedent and is not shown to be a flight risk. However, considering that the applicant and the family of the deceased are neighbours, certain conditions will have to be imposed. Mr. Rai states, on instructions received, that the applicant shall not reside within the territorial limits of Chandur Railway till the conclusion of trial.

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

(i) The applicant be released on bail in Crime 120/2021 registered with Police Station, Chandur Railway, District Amravati for offence punishable under Section 302 of the Indian Penal Code, on his executing PR bond of Rs. 16,000/- (Rupees Sixteen Thousand) with solvent surety of the like amount.

(ii) Till the material witnesses are examined in the trial, the applicant shall not enter the territorial limits of

Chandur Railway, District Amravati unless he is required to do so to attend the Court hearing.

(iii) The applicant shall attend every date of hearing scrupulously.

(iv) The applicant shall not, directly or indirectly, make any attempt to influence the witnesses or otherwise tamper with the evidence.

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

JUDGE

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