

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

Criminal Application (BA) No. 1295 of 2021

(Sagar S/o Anil Yadav ..vs.. State of Maharashtra through P.S.O., Awadhootwadi, Tahsil Yavatmal,
District Yavatmal)

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

Court's or Judge's orders

Mr. Aadil J. Mirza, Advocate for the applicant
Mrs. K. R. Deshpande, APP for the State/non-applicant

CORAM : ROHIT B. DEO, J.

DATED : 20-12-2021

Heard.

2. The applicant is seeking bail in connection with Crime 400/2020 registered with Police Station, Avdhootwadi, District Yavatmal for offences punishable under Sections 302, 307, 143, 147, 148, 323, 504 and 212 of the Indian Penal Code (IPC) and Sections 4 and 25 of the Arms Act.

3. The prosecution case is that there is a long standing enmity between the family of the victim and the family of the applicant, who are neighbours.

4. According to the prosecution, on 12-5-2020 at 9.30 p.m., the family members of the applicant cornered

and assaulted Suryaprakash Murab. The applicant allegedly fetched a knife from his house and dealt two blows, on vital parts. Suryaprakash was admitted in the hospital and was operated and he succumbed to injuries suffered, after two days.

5. Learned counsel for the applicant would submit, and there is no rebuttal and fairly so, that there appears to have occurred a free for all fight. Counter report is lodged by the family of the applicant and brother of the applicant is seriously injured. He suffered, *inter alia*, a fracture of the leg and was operated. Offence punishable under Section 307 and other relevant provisions is registered against the family members of the victim.

6. I have given due attention to the counter narratives as is discernible from the paper book. While the incident, according to the prosecution, is captured in the CCTV camera, there does not appear to be a panchanama on record throwing light on what exactly is recorded. Be that as it may, it will have to be granted to the prosecution *prima facie*, that the applicant did fetch a knife and inflicted two blows on Suryaprakash who

succumbed to injuries suffered. However, the submission that even if, the entire prosecution case is accepted, the offence may at the highest fall under 304 Part II of IPC, is a submission which cannot be brushed under the carpet and will have to be given due consideration in the trial, obviously, on the basis of the evidence which may come on the record.

7. Considering that the applicant does not appear to have any criminal antecedent and at any rate such was not an assertion by the prosecution even before the learned Sessions Judge who rejected the bail, that the applicant is relatively young, aged 22 years presently, that he is in custody since last more than 18 months, and that he is not shown to be a flight risk, I am inclined to grant bail with certain conditions.

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

(i) The applicant be released on bail on 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 Yavatmal unless he is required to do so to attend the Court hearing.

(iii) The applicant shall not indulge in any criminal activity while on bail.

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

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

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

JUDGE

wasnik