

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**  
**NAGPUR BENCH : NAGPUR**

**CRIMINAL APPLICATION (BA) 21 OF 2022**

Rajesh Rama Yeole

Vs.

The State of Maharashtra Through P.S.O. of P. S. Chikhaldara, Dist. Amravati

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

Court's or Judge's orders

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Ms. Sapna S. Jadhav, Advocate for applicant.

Mr. S. M. Ghodeswar, APP for non-applicant/State.

**CORAM : AVINASH G. GHAROTE, J.**

**DATE : 08/02/2022**

Hearing was conducted through Video Conferencing and the learned Counsel agreed that the audio and visual quality was proper.

2. Heard Ms. Jadhav, learned counsel for the applicant and Mr. Ghodeswar, learned APP for non-applicant/State.

3. The applicant has been arrayed for the offences punishable under Section 302 and 326 of the Indian Penal Code in Crime No.115 of 2021 registered with the Police Station Chikhaldara.

4. It is contended that since the charge-sheet has been filed on 30.07.2021, the further incarceration of the applicant is not necessary. It is further contended that there is delay in filing of FIR inasmuch as the incident has occurred on 04.05.2021 at about 8.30 p.m.

and the complaint has been filed on 05.05.2021 at 6.00 p.m. There is delay in postmortem report. The MLC Report does not show any serious injury. The injury is not by a life threatening weapon, as only a wooden plank is used. The case falls under exception 4, as there was a sudden fight, and therefore, relying upon *Sahil Dahiya Vs. State, Application No.907 of 2015, decided by the Delhi High Court on 3<sup>rd</sup> June 2015*, it is submitted that applicant is entitled for bail.

5. Mr. Ghodeswar, learned APP for non-applicant/State submits that the applicant and the deceased were brothers and the applicant, was residing separately and they were not on talking terms due to some inimical relations. The injury has led to the death of the deceased as per the postmortem report. There are as many as three eye witnesses, and therefore, even if, the charge-sheet is filed, the accused does not deserve to be enlarged on bail.

6. There is no dispute that the applicant is the elder brother of the deceased. Both of them were residing separately and were not on good terms. The applicant, on the fateful day had been to the residence of the deceased and had assaulted him by way of wooden plank, after locking door from the inside. The incident has been witnessed by the wife of the deceased as well as the parents of the deceased. The postmortem report indicates that the assault by the plank on the head, has resulted in the death of the deceased. The very fact, that

the applicant had been to the residence of the deceased at 8.30 p.m. in the night may, considering the present circumstances, rule out the case falling under the fourth exception, however, this is only a *prima facie* view. Considering the fact, that the applicant, has committed the offence as against his own younger brother in front of the wife and parents, I am not inclined to entertain the application. The same is accordingly rejected.

**JUDGE**

*Sarkate*