

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

Criminal Application (BA) No.149/2022

Tukaram Barange V State of Maharashtra thr PSO PS Karanja, Wardha

Office notes, Office Memoranda of
 Coram, appearances, Court's orders
 or directions and Registrar's orders.

Court's or Judge's Orders

Shri S.W. Sambre, Advocate for applicant.
 Shri V.A. Thakare, APP for State.

CORAM : ANIL S. KILOR, J.
DATE : 15-06-2022

The applicant has approached to this Court by filing the present application under Section 439 of the Code of Criminal Procedure for grant of bail in connection with Crime No.0215/2021 dated 24-07-2021 registered with Police Station Karanja, District Wardha for the offence punishable under Sections 302 of the Indian Penal Code.

2. The learned Counsel for the applicant submits that due to sudden provocation the incident took place. There was no intention of the applicant to commit the offence. It is further submitted that there is no criminal antecedent to discredit the applicant. He further argued that after completion of the investigation, the chargesheet has been filed and as such no further custody of the applicant is necessary. He lastly submits that the deceased was the real brother of the applicant and because he assaulted the mother, a quarrel took place and the

applicant assaulted the deceased. Thus, it was not premeditated. Accordingly, he prays for grant of bail.

3. The learned APP, on the other hand, strongly opposed the application. He submits that there are statements of eye witnesses. It is pointed out that the villagers tried to pacify the applicant, but he did not pay any heed to the same and continue to assault the deceased. It is further submitted that the post mortem report shows that there are six injuries found on the person of the deceased. He, therefore, submitted that the offence is very serious. Hence, the prayer for grant of bail would not be considered.

4. I have perused the case diary and the contents of the First Information Report (FIR).

From the statements of the witnesses, prima facie, it appears that the deceased was the real brother of the applicant and because the deceased assaulted the mother, a quarrel took place and the applicant assaulted the deceased by means of axe.

5. Thus, prima facie, it can be seen that it was not premeditated but it took place because of sudden provocation.

6. The statements of witnesses also show that there was an incidents when the deceased set the house of the

applicant on fire. It also appears that there was continuous harassment to the applicant at the hands of the deceased. Prima facie, the said reasons appear to be responsible to trigger the anger of the applicant. There are no criminal antecedents to discredit the applicant.

7. After completion of the investigation, the chargesheet has been filed and no further custody of the applicant is necessary. Moreover, there is nothing to show that the applicant would pressurize the prosecution witnesses or tamper with the prosecution evidence and/or he will not be available for the trial.

8. In that view of the matter, I pass the following order:-

ORDER

- i) Application is allowed.
- ii) The applicant in Crime No.0215/2021 dated 24-07-2021 registered with Police Station Karanja, District Wardha for the offence punishable under Sections 302 of the Indian Penal Code, be released on bail on furnishing P.R. Bond of Rs. 15,000/- with one solvent surety in the like amount.
- iii) The applicant shall not enter within the vicinity of village Ekarjun, Tq. Karanja, District Wardha, till the completion of trial, except for the purposes of trial.

iv) The applicant shall not pressurize the prosecution witnesses or tamper with the prosecution evidence.

(Anil S. Kilor, J.)