

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

Criminal Application (BA) No. 175 of 2022

Sushil @ Chotu S/o Sahebrao Mahure

Versus

State of Maharashtra, through Police Station Officer, Benoda, Amravati

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Shri N.P.Singhania, Advocate for the applicant.
Ms Mrunal Barbde, APP for the State / Non-applicant

**CORAM : ANIL S. KILOR, J.
DATED : 8th JUNE, 2022.**

The applicant is praying for grant of bail under Section 439 of the Code of Criminal Procedure in Crime No. 189 of 2020 dated 30th December, 2020 registered with Police Station Banoda, Dist. Amravati for the offences punishable under Section 302 of Indian Penal Code.

2. The allegations made in the First Information Report (FIR) is that the applicant assaulted the deceased who was about 90 years old and who died because of said assault.

3. Learned counsel for the applicant has argued as follows :-

a) The applicant has been falsely implicated in the alleged offence.

b) As per the contents of the First Information Report, there were two eye witnesses who were present at the time of incident.

c) Incident took place on 28th December, 2020, whereas the report was lodged on 30th December, 2020.

d) The story of the prosecution is improbable particularly when it is the case of the prosecution that the applicant assaulted the deceased in presence of two eye witnesses.

e) After completion of investigation, the chargesheet has been filed and no further custody is necessary.

4. On the other hand, learned Additional Public Prosecutor has opposed the present application and argued as follows:

i) There are statement of witnesses which corroborates the story of prosecution.

ii) There were multiple injuries on the body of the deceased as mentioned in the post-mortem report and the cause of death was multiple injury.

5. I have perused the chargesheet and the contents of the First Information Report.

6. The alleged incident took place on 28th December, 2020. From the First Information Report, it can be seen that the complainant Adesh Ramteke and Amit Ramteke were present at the time of incident and it is the case of the prosecution that in their presence the applicant assaulted the deceased. No explanation has been given for delay in lodging the First Information Report. There is nothing to point out that why incident was not immediately reported to the police by the eye witnesses who are the relatives of the deceased.

7. Though, there are multiple injuries as observed in the post-mortem report, the fact that First Information Report states that the applicant assaulted the deceased in presence of two witnesses and *prima facie* creates doubt about the veracity of allegation in the First Information Report.

8. Moreover, as the chargesheet has already been filed and the custody of the applicant is no more required in this case. Thus, in the above referred backdrop, I am of the opinion that the applicant is entitled for grant of bail.

9. Nothing has been pointed out from record to show that there is any possibility that the applicant may pressurize the prosecution witnesses or tamper the prosecution witnesses or he will not be available for trial. In the circumstances, I pass the following order:

i. It is directed that the applicant shall be released on bail in Crime No. 189 of 2020 dated 30th December, 2020 registered with Police Station Banoda, Dist. Amravati for the offence punishable under Section 302 of Indian Penal Code, on furnishing P.R.Bond of Rs.15,000/- with a solvent surety in the like amount.

The application is accordingly disposed of.

SACHINDANAND
K NAIR

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by
SACHINDANAND
K NAIR
Date: 2022.06.08
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[ANIL S. KILOR, J.]