

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

**CRIMINAL APPLICATION (BA) NO.177 OF 2022**

Gajanan s/o Bhimrao Sultane

Vs.

State of Maharashtra, Through Police Station Officer, Dhanaj, Tq. Karanja,  
Dist. Washim

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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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Mr. R. L. Kadu, Advocate for applicant.  
Mrs. S. Haider, APP for non-applicant/State.

**CORAM : AVINASH G. GHAROTE, J.**  
**DATE : 17/03/2022**

Heard Mr. Kadu, learned counsel for the  
applicant and Mrs. Haider, learned APP for  
non-applicant/State.

2. The applicant is arraigned for the offence punishable under Sections 302, 307, 326, 504, 506, 109 read with Section 34 of the Indian Penal Code and Section 4 and 25 of the Arms Act, in Crime No.228 of 2020.

3. The incident is dated 23.06.2020. The applicant is arrested on 24.06.2020. The charge-sheet has been filed on 17.09.2020.

4. Mr. Kadu, learned counsel for the applicant, basically relies upon contention that Manish Sultane, who is the accused no.2, has been released by this Court

on 14.07.2021 and was having role greater than the applicant, he having assaulted the deceased on back by knife. He submits, that the role attributed to the applicant is lesser one, and therefore, though the earlier application of the applicant was permitted to be withdrawn with liberty to file an application before the learned Trial Court, if the trial does not proceed within a period of six months and the application made before the learned Trial Court subsequent thereto has been rejected on 01.10.2021, considering the bail granted to the accused no.2, the role of the applicant and the liberty granted to the applicant is entitled for bail.

5. The application is opposed by Mrs. Haider, learned APP for non-applicant/State, who contends that though, there is no assault attributed to the applicant upon the deceased, the charge-sheet indicates assault by a stick to Akshay, Sunanda and Shakuntala, and therefore, his role in the incident is not insignificant, considering which, the application be rejected.

6. The incident is dated 23.06.2020 at 8.30 p.m, when the accused claimed to have assaulted the members of the Ghate family, in which, due to an assault by Manish Sultane by way of a knife on the back of Ishwardas Mahinge and by Ankush Gajanan Sultane on the stomach of the said Ishwardas Mahinge, he lost his life. The role attributed to the applicant is by assault by a stick on the head of Akshay, Sunanda and the hand of Shakuntala. The injury report (page 55) of Akshay

indicates an abrasion on the occipital region of the head of 2 X 0.5 c.m. that of Shakuntala (page 53) indicates blunt trauma to the left shoulder at deltoid region laterally and that of Sunanda (page 54) indicates abrasion on the occipital region with bleeding injury, the size being 2 X 0.5 c.m. by hard and blunt object. It is thus apparent, that the role of the applicant is lesser than that of Manish Sultane, who has been released by this Court by the order dated 14.07.2021 (page 186). The charge-sheet has already been filed on 17.9.2020 and the entire investigation is over, considering which, I do not see any reason to continue incarceration of the applicant. Hence the following order.

### **ORDER**

- (i) The criminal application is allowed.
- (ii) The applicant be released on bail in Crime No.228 of 2020 for the offence punishable under Sections 302, 307, 326, 504, 506, 109 read with Section 34 of the Indian Penal Code and Section 4 and 25 of the Arms Act on furnishing PR. bond of Rs.1,00,000/- (Rupees One Lakh) and two solvent sureties of like amount.
- (iii) The applicant shall not tamper with the prosecution evidence and try to influence to them.

(4)

16.ba.177.2022

(iv) The applicant shall not enter the jurisdiction of Police Station Dhanaj, Tahsil Karanja, District Washim, during the course of the trial.

(v) The applicant shall not indulge any criminal offence whatsoever.

(vi) The applicant shall attend each and every date before the learned Sessions Court and shall ensure that the trial is not protracted on his count.

(vii) Violation of any of the above conditions shall result in cancellation of bail.

**JUDGE**

*Sarkate*