

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

CRIMINAL APPLICATION (BA) NO.189 OF 2022

Shaukatali Gulabali Sayyad

Vs.

State of Maharashtra, Through its Police Station Officer, Police Station, Gadchiroli,
District Gadchiroli

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

Court's or Judge's orders

Mrs. Sanchita P. Sontakke, Advocate a/w Mr. Karan Gajra, Advocate for applicant.
Mrs. S. Haider, APP for non-applicant/State.

CORAM : AVINASH G. GHAROTE, J.

DATE : 24/03/2022

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

2. The applicant is arraigned for the offence punishable under Section 302 of the Indian Penal Code in Crime No.630 of 2021. The date of incident is 14.08.2021. The FIR is lodged on 16.08.2021, on which date, the applicant has been arrested. The charge-sheet has been filed on 11.11.2021.

3. Mrs. Sontakke, learned counsel for the applicant submits, that there was no intention of the applicant to commit the crime as would be apparent from the narration of the incident. The assault was only by fist and kicks and not by any weapon. The incident had no background. The Postmortem Report does not indicate

any external injury, however, the cause of demise is stated to be haemorrhage and shock due to injuries to Liver and Spleen. She therefore submits, that the charge-sheet has already been filed on 11.11.2021 and no motive is attributed to the applicant, who is entitled for bail.

4. Mrs. Haider, learned APP for the non-applicant/State, opposes the application and contends, that since the applicant was retired Police official he was aware, what damage the nature of blows which may be inflicted by him would cause, and therefore, the act was premeditated one, considering that the deceased had failed to pay an amount of Rs. 200/- to the applicant.

5. The charge-sheet discloses, that on 14.08.2021, when the deceased alongwith his daughter, had been to the hotel of Devrao Pundlik Khevle and was having his breakfast, the applicant had come there. Seeing the applicant, deceased had given Rs.200/- to the applicant which was the balance on account of a sale of a cycle to the deceased, whereupon, the currency notes had been thrown away by the applicant complaining that he was not a beggar and there was substantial delay in the payment and he had started assaulting the deceased, not with any weapon but by fist and kicks. The statements of Devrao Pundlik Khevle the hotel owner, Aslam Rafiq Shaikh, Rafik Gaffar Shaikh, who are the eyewitnesses also supports this position. It is thus apparent, that the assault, was not on account of any premeditation, but

prima facie it appears to be in a fit of anger. There is no external injury as per the Postmortem Report. The cause of death is due to haemorrhage of shock to the Liver and Spleen. In view of which, in my considered opinion, *prima facie* case for bail is made out. Hence the following order.

ORDER

- (i) The application is allowed.
- (ii) The applicant be released on bail, in Crime No.630 of 2021, for the offence punishable under Section 302 of the Indian Penal Code, on his executing PR. bond in the sum of Rs.1,00,000/- (Rupees One Lakh) with two solvent sureties of like amount.
- (iii) The applicant shall not tamper with the prosecution evidence or try to influence the witnesses directly or indirectly.
- (iv) The applicant shall attend each and every date before the learned Sessions Court.
- (v) The applicant shall not indulge into any other offence of any nature of whatsoever.
- (vi) Violation of any of the above conditions shall result in cancellation of bail.

JUDGE

Sarkate