

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

Criminal Application (BA) No.231/2022

Santosh Sapkal and another V State of Maharashtra thr PSO PS Janephal, District
Buldhana

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

Court's or Judge's Orders

Shri S.V. Deshmukh, Advocate for applicants.
Shri T.A. Mirza, APP for State.

CORAM : ANIL S. KILOR, J.
DATE : 08-06-2022

The applicants are seeking bail under Section 439 of the Code of Criminal Procedure in connection with Crime No.352/2021 registered with Police Station Janephal, Taluka Mehkar, District Buldana for the offences punishable under Sections 324, 452, 323 read with Section 34 of the Indian Penal Code (IPC).

2. The learned Counsel for the applicants submits that though the alleged incident took place on 27-10-2021, no report was lodged for two days and on 29-10-2021 at 23.05 hours, the report was lodged for the offences punishable under Sections 324, 452, 323 read with Section 34 of the IPC. It is pointed out that the initial medical report shows that there was a contusion lacerated wound over scalp caused because of hard and blunt weapon. The injury was simple and the period of healing was mentioned as 8 to 9 days. It is pointed out that the deceased

was discharged from the hospital on 22-11-2021 and again he was hospitalized on 02-12-2021 and on the basis of subsequent medical report, Section 326 of the IPC was added and after addition of Section 326 of the IPC, the applicants were arrested on the same date. Thus, he submits that the custody of the applicants was not sought for by the Police before addition of Section 326 of the IPC. The learned Counsel for the applicants further points out that the cause of death is septicemia. He lastly argues that on completion of investigation, the chargesheet has been filed and as such no further custody of the applicants is necessary.

3. The learned APP, on the other hand, strongly opposed the application and submits that the Investigating Officer has filed statements of the witnesses along with the chargesheet which are sufficient to show the involvement of the applicants in the alleged offences. He further submits that septicemia was developed because of injury caused to the deceased, due to blow given by the applicants on the head of the deceased. He, therefore, further submits that as far as delay is concerned, the same will be explained at the time of trial. Accordingly, he prays for rejection of the bail application.

4. I have perused the chargesheet and also the contents of the First Information Report (FIR). Prima facie, it appears that

there was some dispute between the applicants and the family of the deceased and out of that dispute the alleged incident took place on 27-10-2021. The injury report filed along with chargesheet dated 27-10-2021 shows that there was one contusion lacerated wound which was simple in nature.

5. It can be seen that the incident took place on 27-10-2021 and no report was lodged for 2 days. From the contents of the FIR, it can be seen that the complainant did not accompany with the deceased to the hospital. Furthermore, in spite of the said fact, there is no explanation offered by the complainant for delay in lodgment of the FIR. The chargesheet shows that the deceased was discharged on 22-11-2021 and he was again hospitalized on 02-12-2021 and died on 27-12-2021. The deceased survived for about one and half month after the incident.

6. In the above referred backdrop and in view of the fact that the chargesheet has already been filed and no further custody of the applicants is necessary, I am of the opinion that the applicants are entitled for grant of bail. Furthermore, as there is nothing to show that the applicants would pressurize the prosecution witnesses or tamper with the evidence of the prosecution and/or they will not be available for trial, I pass the following order :-

ORDER

- i) Application is allowed.
- ii) Applicant no.1-Santosh s/o Anna Sapkal and Applicant no.2- Sau. Rajashri w/o Santosh Sapkal be released on bail on furnishing P.R. Bond of Rs. 15,000/- each with one solvent surety in the like amount in Crime No.352/2021 registered with Police Station Janephal, Taluka Mehkar, District Buldana for the offences punishable under Sections 324, 452, 323 read with Section 34 of the Indian Penal Code (IPC).

(Anil S. Kilor, J.)