

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

Criminal Application (BA) No. 350 of 2022

Manoj S/o Rajratan Dongre

Versus

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

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

Court's or Judge's Order

Shri R.M.Daga, Advocate for the applicant.

Ms Mrunal Barbde, APP for the State / Non-applicant

Shri S.V.Sirpurkar, Advocate assist to prosecution.

CORAM : ANIL S. KILOR, J.

DATED : 22nd JUNE, 2022.

The applicant is seeking bail under Section 439 of the Code of Criminal Procedure in Crime No. 2730 of 2021 dated 25th October, 2021 registered with Police Station Gadgenagar, Amravati for the offence punishable under Sections 302, 504, 506, 143, 147, 148, 149 of Indian Penal Code alongwith Sections 4 read with 25 of Indian Arms Act.

2. Learned counsel for the applicant submits that co-accused Yadav whose role is similar to the role of the applicant in the alleged offence has already been released on bail, as such the applicant is entitled for

grant of bail on parity. It is further submitted that after completion of investigation the chargesheet has been filed and further custody of the applicant is not required.

3. On merit, learned counsel for the applicant submits that from the statement of witnesses and from the contents of the First Information Report, only role attributed to the applicant is that he assaulted the deceased by means of kicks and fists. It is points out that in the earlier dying declaration of the deceased, he did not disclose the name of the applicant. However, first time in supplementary statement the name of applicant was disclosed. He therefore, submits that it creates doubt about the veracity of the allegations.

4. Learned counsel for the applicant submits that applicant is in jail since eight months and there is no likelihood that the trial would conclude in near future.

5. Learned Additional Public Prosecutor strongly opposed the application and submits that there are criminal antecedents to the discredit of the applicant and as the offence is very serious, this Court may not grant bail to the applicant.

6. Shri Shirpurkar, learned counsel, who is assisting the prosecution on behalf of the complainant,

submits that as the offence is registered under Section 149 of Indian Penal Code, the role attributed to the applicant is of relevance.

7. He submits that the statement of witnesses are sufficient to show that the applicant was present at the spot of the incident since beginning and as such there is material to show the involvement of the applicant. Accordingly, he prays for rejection of the application.

8. I have perused the chargesheet and the First Information Report.

9. From the chargesheet, it can be seen that the overt act attributed to the applicant is that he assaulted the deceased by means of kicks and fist. His case is similar with the case of co-accused Yadav against whom the similar allegations are made.

10. In the initial statement dying declaration of the deceased, *prima facie*, it appears that the deceased did not disclose the name of the applicant, however, in the supplementary statement, the name of the applicant was mentioned alongwith the name of co-accused Yadav.

11. The applicant is in jail since last eight months and till date even the charge is not frame and

thus it appears that there is no possibility that the trial would conclude in near future.

12. As far as the antecedents are concerned, there is no offence of similar nature.

13. In the above backdrop, I am of the opinion that criminal antecedents would not come in the way of the applicant in this case. As there is no possibility that the trial will conclude in near future, there is no point to keep the applicant in jail for uncertain period, otherwise it would amount to pre-trial punishment. In the circumstances, I pass the following order.

- i. Criminal application is allowed;
- ii. It is directed that the applicant shall be released on bail in Crime No. 2730 of 2021 dated 25th October, 2021 registered with Police Station Gadgenagar, Amravati for the offence punishable under Sections 302, 504, 506, 143, 147, 148, 149 of Indian Penal Code alongwith Sections 4 read with 25 of Indian Arms Act, on furnishing P.R.Bond of Rs.25,000/- with a solvent surety in the like amount;
- iii. The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case, as also not tamper with the evidence;

iv. The applicant shall not enter territorial jurisdiction of Amravati City till the conclusion of trial, except to attend the trial in Sessions Court, Amravati.

[ANIL S. KILOR, J.]

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