

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

Criminal Application (BA) No. 716 of 2022

Natthuji Appaji Telrandhe

Versus

The State of Maharashtra, through Police Station Officer,
Police Station Seloo, Tah. Seloo, Dist. Wardha

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

Court's or Judge's Order

Shri P.S.Kadam, Advocate for the applicant.

Shri T.A. Mirza, APP for the State / Non-applicant

CORAM : ANIL S. KILOR, J.

DATED : 4th JULY, 2022.

The applicant is seeking bail under Section 439 of the Code of Criminal Procedure in Crime No. 531 of 2021 registered with Police Station Seloo, Dist. Wardha for the offence punishable under Sections 302, 307, 324 read with Section 34 of the Indian Penal Code.

2. Learned counsel for the applicant submits that the complainant and 14-15 other persons were suddenly attacked on the accused persons and in defence there was scuffle and one Vasanta Pohane died in it. He submits that there was no intention to kill anybody,

however, in self defence the accused persons used the stick, iron rod or axe.

3. Learned counsel for the applicant further submits that query report, in relation to the stick used by the applicant, does not support the prosecution story.

4. He further points out that the applicant is a handicap persons and therefore, the overt act attributed to the applicant in the First Information Report, is improbable.

5. He further submits that there is no injury caused by stick which resulted into death of the deceased.

6. He lastly argues that the applicant is in jail for more than nine months and further custody of the applicant is not necessary, in view of the fact that chargesheet has been filed. Accordingly, he prays for grant of bail

7. On the other hand, learned Additional Public Prosecutor strongly opposed the application and submits that the offence is very serious, as Section 34 is applied, it is not relevant whether the injury by stick was resulted into the death of the deceased or not. He states that there is sufficient material available on record 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. It appears from the chargesheet and the statement of witnesses that about 14 to 15 persons attacked the house of the applicant. In this scuffle, the deceased injured and he was taken to hospital where he was declared as dead. The statements of witnesses show that the applicant was having a stick in his hand at the time of incident.

10. Considering the cause of death and looking to the injury on the chest of the deceased, the query report clearly opined that the said injury is not possible by the stick which was in the hand of the applicant. Thus, prima facie the death was not caused due to alleged attack by applicant.

11. The spot of incident is the house of the applicant where the deceased and other persons went with certain object. There was one N.C. report lodged prior to the incident where the son of the applicant made a complaint against the deceased and others. The said N.C. shows that the applicant and his family members had apprehension of such attack.

12. The applicant is handicap person. There is no possibility that the trial would be concluded in near future. Thus, I am of the opinion that considering the

role of the applicant and the weapon used by him there is no point in keeping the applicant in jail for uncertain period otherwise, it would amount to pre-trial punishment.

13. Furthermore, there are no criminal antecedents to the discredit of the applicant and as there is no possibility that the applicant would pressurize or he will not be available for trial, I pass the following order.

i. It is directed that the applicant shall be released on bail in Crime No. 531 of 2021 registered with Police Station Seloo, Wardha for the offence punishable under Sections 302, 307 and 324 read with Section 34 of Indian Penal Code, on furnishing P.R.Bond of Rs.25,000/- with a solvent surety in the like amount.

ii. The applicant shall attend the concerned police station on 1st day of every month between 10 am to 12 noon till the conclusion of the trial.

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. State is at liberty to apply for cancellation of bail in case the applicant commits similar offence.

[ANIL S. KILOR, J.]

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