

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

CRIMINAL APPLICATION (BA) NO.849 OF 2022

Laxmibai @ Kalpana Ashok Chaudhari **Versus** State of Maharashtra, thr. PSO Ashti 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 D.S. Lambat, counsel for the applicant.

Shri V.A.Thakre, A.P.P. for the non-applicant/State.

CORAM : ANIL S. KILOR, J.
DATED : 19/08/2022

1. The applicant is seeking bail in connection with Crime No. 206 of 2021, registered with Police Station Ashti, District Wardha, for the offences punishable under Sections 326, 302, 504, 506 read with Section 34 of the Indian Penal Code, 1860.

2. The learned counsel for the applicant submits that, the deceased and the applicant are the close relatives and on the date of incident, there was exchange of hot words between the accused and the family of the deceased and it resulted in to assault by accused, wherein the deceased sustained injuries and died after five days.

3. It is submitted that, there was no intention and in a spur of moment, the incident took place.

4. The learned counsel for the applicant further submits that, the applicant is a lady and no specific role is attributed to her and only general allegations of assault is made.

5. It is submitted that, from none of the statement of witnesses, it can be gathered that, the injury which resulted into the death of the deceased was caused because of the applicant.

6. He lastly submits that, as the investigation is completed and the charge-sheet has been filed as such further custody of the applicant is not necessary. Accordingly, he prays for grant of pre-arrest bail.

7. On the other hand, learned APP strongly opposed the present application and submits that, there are statements recorded under Section 164 of Code of Criminal Procedure to support the case of the prosecution. It is submitted that, the offence is serious and hence, this Court may not grant bail to the applicant.

8. I have perused the Charge-sheet and the FIR.

9. From the FIR, it can be seen that the allegations are that the accused persons assaulted the deceased on his legs. The allegations do not show that, the assault was premeditated.

10. Further, *prima-facie*, it appears that when the deceased was immediately referred to the Rural Hospital, only two injuries were found on his person, whereas in the Post Mortem report 19 injuries are mentioned in Column No.17. Out of those 19 injuries, there are six injuries due to surgical intervention which even if ignored, there is *prima-facie* discrepancy in the injury report and injuries shown in the Post Mortem.

11. Moreover, considering the other material i.e. statement of witnesses, it can be seen that, in a fit of anger, the alleged incident took place and there was no intention to commit the said offence.

12. The applicant is a woman and she is in jail from last about ten months. In this case, the investigation is completed and the charge-sheet has been filed. Thus, looking to the nature of allegations and the character of material collected by the Investigating Officer, I am of the opinion that the applicant is entitled for grant of bail. Accordingly, I pass the following order:

- a) The criminal application is **allowed**.
- b) It is directed that in connection with Crime No. 206 of 2021, registered with Police Station Ashti, District Wardha, for the offences punishable under Sections 326, 302, 504, 506 read with Section 34 of the Indian Penal Code, 1860, the applicant shall be released on bail on furnishing P.R. Bond of Rs.25,000/- with one solvent surety in the like amount.
- c) The applicant shall attend the concerned Police Station as and when his presence is required.
- d) The applicant shall not tamper with the prosecution witnesses.

The criminal application is **disposed of**, accordingly.