

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

CRIMINAL APPLICATION (BA) NO.856 OF 2022

Rajesh S/o Rama Yeole

Versus

State of Maharashtra, through P.S.O., P.S. Chikhaldara, Tq. Chikhaldara, Dist.
Amravati

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

Court's or Judge's Order

Shri D.K. Wadhwani, Adv. h/f Shri H.A. Biherani, Adv. for the
applicant.

Shri A.R. Chutke, A.P.P. for the non-applicant/State.

CORAM : ANIL S. KILOR, J.

DATED : 05/08/2022

1. The applicant is seeking bail in Crime No.115 of 2021, dated 05.05.2021, registered with Police Station Chikhaldara, District: Amravati, for the offences punishable under Sections 302 and 326 of the Indian Penal Code.

2. This court had rejected the application of the applicant for grant of bail on 08.02.2022. While rejecting the first application, this Court had recorded the reasons in paragraph-6, which read thus:

“There is no dispute that the applicant is the elder brother of the deceased. Both of them were residing separately and were not on good terms. The applicant, on the fateful day had been to the residence of the deceased and had assaulted him by way of wooden plank, after

locking door from the inside. The incident has been witnessed by the wife of the deceased as well as the parents of the deceased. The postmortem report indicates that the assault by the plank on the head, has resulted in the death of the deceased. The very fact, that the applicant had been to the residence of the deceased at 8.30 p.m. in the night may, considering the present circumstances, rule out the case failing under the fourth exception, however, this is only a prima facie view. Considering the fact, that the applicant, has committed the offence as against his own younger brother in front of the wife and parents, I am not inclined to entertain the application. The same is accordingly rejected."

3. The learned counsel for the applicant pointed out that the successive application is maintainable, in view of change in circumstances, i.e. a letter written to the Superintendent of Police, Amravati (Rural), by the parents who are shown as eye witness, making a complaint that, though the statements of them were never recorded by the Police, it find place in the charge-sheet.

4. I have perused the order dated 08.02.2022 passed by this Court. After rejection of the first application, there are no change in circumstances in this case to entertain successive application.

5. Moreover, as regards the complaint made by the parents of the applicant to the Superintendent of Police stating that, there are statements filed along with the charge-sheet, which were never recorded by the Police, it is a matter

of evidence and in any case, at this stage, this Court cannot comment upon the veracity of the said complaint or the allegations.

6. In that view of the matter, there are no change in circumstances. Thus, I am not inclined to grant bail to the present applicant. Accordingly, I pass the following order:

The criminal application is **rejected**.

7. At this stage, learned counsel for the applicant prays for expediting the trial.

8. The learned trial Court is requested to expedite the trial.

[ANIL S. KILOR, J.]