

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

CRIMINAL APPLICATION (BA) NO.894 OF 2022

Elabad Mulkiram Bhosale **Versus** State of Maharashtra, through P.S.O., PS Ner, Yavatmal.

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

Court's or Judge's Order

Shri P.V.Navlani, counsel for the applicant.

Shri S.D.Sirpurkar, A.P.P. for the non-applicant/State.

CORAM : ANIL S. KILOR, J.
DATED : 20/08/2022

1. The applicant is seeking bail in connection with Crime No. 142 of 2021, registered with Police Station Ner, Dist. Yavatmal, for the offences punishable under Sections 302, 326, 143, 147, 148, 149 and 506 of the Indian Penal Code, 1860.

2. The learned counsel for the applicant submits that, the applicant is 62 years old and though in the FIR, it was alleged that the applicant was with wooden stick. However, in a statement recorded after one month of the incident, it is alleged that, the applicant was inflicted blows by the Axe.

3. It is submitted that, it is improvisation of the case against the applicant, to make it more serious.

4. It is submitted that, the applicant has been falsely implicated in the alleged offence.

5. He submits that, three accused persons have been released on bail, who are similarly circumstanced and there is no recovery from the applicant.

6. It is further pointed out that, the counter FIR's were registered against each other by both the groups and members of both the groups got injured and one died, because of head injury.

7. He lastly argues that, after completion of the investigation, the Charge-sheet has been filed and as such, custody of the applicant is no more required.

8. On the other hand, learned APP strongly opposed the present application and submits that the offence is serious and as such this Court may not grant bail to the applicant.

9. It is further submitted that, there is a dispute in both the groups about an agricultural land and therefore, if the applicant is released on bail, there is every likelihood that, he may repeat the offence.

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

11. The applicant is 62 years old and in the FIR, it was alleged that the applicant assaulted the members of other group by stick. Whereas, the statements of three witnesses which were recorded after about one month, it is stated that the applicant assaulted by means of an Axe.

12. Nothing has been recovered from the applicant in this case. There is a dispute of an agricultural land between both the groups and the alleged incident is the

outcome of the same. The persons of both the groups were injured in the said incident and one person died due to head injury.

13. In this case, investigation is completed and the charge-sheet has been filed.

14. Thus, considering the fact that, there are counter FIR's and the assailants are more in number and no specific role is attributed to the applicant, wherefrom it can be gathered that, the death was caused to the deceased because of overtact of the applicant. Thus, considering the age of the applicant and the fact that, further custody of the applicant is not necessary, I am of the opinion that, the applicant shall be released on bail. Accordingly, I pass the following order:

- a) The criminal application is **allowed**.
- b) It is directed that in connection with Crime No. 142/2021, registered with Police Station Ner Parsopant, District: Yavamtal, for the offences punishable under Sections 302, 326, 143, 147, 148, 149 and 506 pf 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 not enter into the territorial jurisdiction village Mukindpur Pardhi Beda, Tah.

Ner, Dist. Buldhana, till the culmination of the trial, except for trial.

- d) The applicant shall attend the Police Station as and when his presence is required.
- e) The applicant shall not tamper with the prosecution witnesses.

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

[ANIL S. KILOR, J.]