

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

CRIMINAL APPLICATION (BA) NO.925 OF 2022

Namdeo s/o Mahesh Puri **Versus** State of Maharashtra, through Yashodhara Nagar,
Police Station, Nagpur.

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

Court's or Judge's Order

Shri A.Z.Gharde, counsel for the applicant.

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

CORAM : ANIL S. KILOR, J.

DATED : 11/08/2022

1. The applicant is seeking bail in connection with Crime No. 758 of 2021, registered with Police Station Yashodhara Nagar, Nagpur, for the offences punishable under Sections 302, 324, 323, 504, 143, 144, 147, 149 of the Indian Penal Code, 1860 read with Section 135 of Mumbai Police Act.

2. Learned counsel for the applicant submits that, the complainant is a drug addict and there is enmity between the applicant and the complainant and therefore, he has falsely implicated the applicant in the alleged offence.

3. Learned counsel for the applicant further submits that, on the relevant date and the time of incident, the applicant was at his home and taking rest being tired after coming back from the work and he was not present at the spot. However, he has been falsely implicated in the alleged offence.

4. Learned counsel for the applicant submits that, none of the witnesses except the complainant named the applicant, though the injured witnesses were conversant with the applicant. He, therefore, submits that except the statement of the complainant, there is no material against the applicant.

5. He lastly argues that, nothing has been recovered from the applicant and thus, he submits that considering the above referred facts, the applicant may be released on bail.

6. On the other hand, learned APP strongly opposed the present application and submits that the offence is very serious in nature and the accused persons have committed murder by forming an unlawful assembly.

7. Learned APP has pointed out that, several injuries were found on the person of the deceased and the sticks were recovered from the spot whereas, the weapon i.e. iron road was recovered from the co-accused/Suraj. Accordingly, he prays for rejection of the present application.

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

9. In the FIR, the complainant has named the applicant. The FIR was registered immediately after the incident. In the above referred backdrop, even though the other witnesses have not named the applicant in the statement, at this stage, it cannot be said that the applicant was not present at the spot.

10. As far as the recovery is concerned, the sticks were recovered from the spot and iron road from the co-accused/Suraj. In this case, the accused persons formed an unlawful assembly and committed the murder and therefore, Section 149 of the Indian Penal Code has been applied.

11. Thus, considering the incriminating material available on record, at this stage, it cannot be said that, the applicant was not present at the spot. In that view of the matter, I am not inclined to grant bail. Accordingly, I pass the following order:

The criminal application is **rejected**.

[ANIL S. KILOR, J.]