

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

Criminal Application (BA) No. 929 of 2022

Someshwar S/o Gajanan Kawle

Versus

The State of Maharashtra, through Police Station Officer, Police Station
Shirpur, Tah. Wani, Dist. Yavatmal and another

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

Court's or Judge's Order

Shri Omkar Deshpande, Advocate for the applicant.
Shri S.D.Sirpurkar, APP for the State / Non-applicant

CORAM : ANIL S. KILOR, J.

DATED : 25th August, 2022.

The applicant is seeking bail under Section 439 of the Code of Criminal Procedure in Crime No. 269 of 2021 registered with Police Station Shirpur, Dist. Yavatmal for the offence punishable under Section 302 read with Section 34 of Indian Penal Code.

2. Learned counsel for the applicant submits that the death of the deceased was not because of any assault by the applicant and as such he is not involved in the alleged offence. It is further submitted that the applicant has been falsely implicated in the alleged

offence, because the applicant was present at the time of incident.

3. He submits that the applicant is in jail since October 2021. He has already undergone substantive incarceration. In the above referred backdrop, he may be released on bail.

4. On the other hand, learned Additional Public Prosecutor strongly opposed the application and submits that the applicant is the person who facilitated the accused no.1 who inflicted numerous blows by iron rod on the deceased because of which he sustained multiple injuries. Learned Additional Public Prosecutor further submits that considering the severity of punishment, this Court may not grant bail to the applicant.

5. I have perused the chargesheet and the application.

6. In this case the deceased sustained as many as seven injuries in the alleged assault. During the investigation, the Investigating Officer has collected CCTV footage wherefrom it is clear that the applicant caught hold the legs of the deceased when the accused no.1 was inflicting blows by iron rod.

7. Thus, *prima facie* there is material to show that the applicant facilitated the accused no.1 in the

alleged assault. The offence is very serious and considering the severity of punishment which conviction will entail and further the material collected by the Investigating Officer during the investigation, I am of the opinion that the applicant is not entitled for grant of bail. Accordingly, I pass the following order.

- i. Criminal application is rejected.

[ANIL S. KILOR, J.]

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