

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

CRIMINAL APPLICATION (BA) NO.1127 OF 2022

(SURAJ PRALHADRAO GAWANDE....VS.. STATE OF MAH. THR. PSO PS CIVIL LINES, AKOLA)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri R.M.Daga, Advocate for Applicant.
Shri S.D.Sirpurkar, A.P.P. for Non-applicant /State.
Shri Avinash Gupta, Sr.Adv. a/b Shri N.R.Saboo, Adv. to assist Prosecution.

CORAM : ANIL S. KILOR, J.

DATED : NOVEMBER 28, 2022.

1. Heard.

2. By this application under Section 439 of the Code of Criminal Procedure the applicant is seeking bail in Crime No.225 of 2019, registered with Police Station, Civil Lines, Akola for the offences punishable under Sections 302, 143, 147, 148, 149, 201, 109, 323, 327 and 506 of the Indian Penal Code and Section 3 of the Prevention of Damage to the Public Property Act, 1984.

3. It is the case of prosecution that on 06/05/2019 one Pravin Kisanrao Hundiware has lodged report, alleging that on said date at about 11:45 a.m. First Informant and his father deceased Kisanrao were discussing their case with their Advocate Mr. Dhoot in the office of Assistant Charity Commissioner, Akola, that time 10-15 persons came in the office of Assistant Charity Commissioner and all of a sudden they started assaulting Kisanrao by means of wooden chairs. Due to the said assault, Kisanrao fell on ground and trying to save himself.

At that time accused Vikram Gawande took out the fire extinguisher and assaulted on the head of Kisanrao, accused Ranjit assaulted by means of “Tocha” (a pointed article) and the other accused persons, including the applicant, had also assaulted Kisanrao by means of wooden chairs, due to which Kisanrao died. On the said report, the aforesaid offence was registered and charge sheet came to be filed.

4. The learned counsel for the applicant submits that there was a delay of five hours in lodging the First Information Report (FIR) and the Query Report as well as the weapon allegedly used by the applicant, is sufficient to show that the injuries caused to the deceased which were responsible for death, were not caused because of the applicant. He further submits that the charge-sheet is filed and further custody of the applicant is not necessary.

5. He further submits that some co-accused have been released on bail and therefore, the applicant is entitled for bail on the principle of parity.

6. On the other hand, Shri Gupta, learned Senior Advocate, who is assisting the prosecution, strongly opposed the application and submits that the alleged incident took place in the office of Assistant Charity Commissioner, Akola and since the offence is very serious, this Court may not grant bail. Accordingly, he prays for rejection of the present application.

7. The learned A.P.P. has reiterated the submissions made by the learned Senior Advocate.

8. I have perused the charge-sheet. After going through the statements of the witnesses, particularly the statements of eyewitnesses, it can be said that there is ample incriminating material available against the applicant to show his involvement in the alleged offence. As far as discrepancy in the contents of the FIR and the statement of witnesses is concerned the same is the matter of trial. Moreover, whether the injuries, which were responsible for the cause of death of the deceased, were caused by the weapon used by the applicant or not is the matter of trial.

9. The co-accused released on bail cannot be said that they are similarly circumstanced, hence, the principle of parity will not apply.

10. At this stage, considering the fact that the incident took place in the Court of the Assistant Charity Commissioner and since the offence is heinous, I am not inclined to grant bail. Furthermore, there is every possibility that if the applicant is released on bail he may pressurize the prosecution witnesses. In the circumstances, as there is incriminating ample material available against the applicant showing his involvement in the alleged offence, I pass the following order:

The Criminal Application is **rejected**.

Pending application(s), if any, shall stand
disposed of.

JUDGE

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