

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

CRIMINAL APPLICATION (BA) NO.1165 OF 2022

(ABHIJIT PRASENJIT MALI...VS.. STATE OF MAH. THR. PSO PS MULCHERA DISTT. GADCHIROLI)

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

Court's or Judge's orders

Shri R.R.Vyas, Advocate for Applicant.
Ms Shamsi Haider, A.P.P. for Non-applicant/State.

CORAM : ANIL S. KILOR, J.
DATED : NOVEMBER 23, 2022.

1. Heard.
2. By this application under Section 439 of the Code of Criminal Procedure the applicant is seeking bail in Crime No.32 of 2021, registered with Police Station, Mulchera, District: Gadchiroli for the offences punishable under Section 302 of the Indian Penal Code.
3. It is the case of the prosecution that the brother of the deceased lodged the complaint alleging that the applicant inflicted a blow by knife on the left chick of the deceased and because of bleeding the deceased died in the said incidence. Thereafter, Crime No.32/2021 dated 28/09/2021 with Police Station, Mulchera, District : Gadchiroli was registered against the applicant for the offence punishable under Section 302 of the Indian Penal Code.

4. The statement of eyewitness Nupur Nitai Haldar is relevant, which shows that on 27/09/2021 between 20:15 to 20:30 hrs. Nupur Haldar had called the deceased and Abhijit Mali in front of a Chicken Shop of Ujwal Chakraborty at Khudirampalli for settlement of their dispute. Nupur Haldar was giving understanding to settle their dispute, in the meantime, mother of Abhijit Mali came there and picked up quarrel and gave a slap to the deceased and thereafter the applicant took a knife lying there in the shop and inflicted a blow on the left chick of the deceased. Thereafter, the deceased was taken to the Hospital, because of the heavy bleeding he succumbed to the said injuries.

5. Considering the above referred incidence it can be said that the incidence was not pre-meditated and the applicant was not carrying any weapon. Initially, there was verbal altercations between the deceased and the applicant on some issue. The witness Nupur Haldar tried to resolve it, however, in a heat of anger the applicant gave a blow by knife, due to which the deceased died.

6. In this case, after the investigation charge-sheet is filed. The applicant is in jail from 28/09/2021 i.e. for more than one year. *Prima-facie* there is nothing to show that there was any intention of the applicant to kill the deceased. No overtact is attributed to the applicant after giving the said blow by knife on the left chick of the

deceased to show that there was any intention of the applicant to commit murder.

7. In the circumstances, considering the overall circumstances in which the incidence took place and the period of incarceration of the applicant coupled with the fact that the investigation is completed, I am of the opinion that the applicant is entitled for grant of bail. Accordingly, I pass the following order:

- i) The Criminal application is allowed;
- ii) It is directed that the applicant shall be released on bail in Crime No.32 of 2021, registered with Police Station, Mulchera, District: Gadchiroli for the offences punishable under Section 302 of the Indian Penal Code , on furnishing P.R.Bond of Rupees Fifty Thousand with one solvent surety in the like amount;
- iii) The applicant shall attend the concerned Police Station on 1st day of every month, till culmination of trial.
- iv) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case, as also not tamper with the evidence;

- v) Liberty is granted to the State for cancellation of bail if the applicant commits similar offence.
- vi) The applicant shall attend the trial before the Special Court regularly on every date unless exemption is granted by the Special Court.

The Criminal Application is **disposed of** accordingly.

JUDGE

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