

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

Criminal Application (BA) No. 1181 of 2022

Sujal S/o Sunil Pardesi (In Jail)

Versus

State of Maharashtra, through Police Station Officer, Police Station
Ramnagar, Wardha, Tah. & Dist. Wardha.

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

Court's or Judge's Order

Shri R.R.Vyas, Advocate for the applicant.

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

CORAM : ANIL S. KILOR, J.

DATED : 22nd NOVEMBER, 2022.

The applicant is seeking bail under Section 439 of the Code of Criminal Procedure in Crime No. 509 of 2022 registered with Police Station Ramnagar Police Station, Dist. Wardha for the offence punishable under Sections 302, 143, 144, 148, 149, 201, 323 of Indian Penal Code.

2. The case of the prosecution is that on the basis of the information supplied by one Naiyan Manoj Bhabat on 6th June, 2022 the above referred crime came to be registered. It is alleged that on 5th June, 2022 at 12 am, the informant Pawan Mate, Pankaj Mishra,

Shyamsunder Siddhu, Aaditya Rudrakar and Akshay Sontakke, Akshay Balbude, Sani Wankhede had gathered at Kho-Kho ground near, old R.T.O. Office Wardha for celebrating the birthday of Amol Tamgadge. It is further stated that they cut the birthday cake and smeared the cake on the face of each other at that time Akshay Sontakke went away from that ground. At that time some boys along with their three motor cycles came there and they were proceeding towards Bachelor Road and because they drove their motor cycle rashly, a quarrel took place between Akshay Sontakke and boys. Thereupon, they assaulted Akshay Sontakke by means of fist and blows. The accused Mayur Giri took out the knife and inflicted the blow to the abdomen, because of which the deceased died.

3. After going through the chargesheet, which was filed after completion of the investigation, it can be seen that the offence was not pre-meditated and *prima facie* it cannot be said that it was an unlawful assembly with common intention to kill the deceased. The incident took place in a spur of moment and it resulted in death of the deceased.

4. If the role of the present applicant is considered the only allegations against the applicant is that he assaulted the deceased by fist and kick blows.

The cause of death as per Post Mortem report is due to stab injury to the abdomen.

5. Admittedly, the applicant is not author of the said injury and as I have observed that it is doubtful whether Section 149 of the Indian Penal Code will apply to this case, hence, I am of the opinion that though, the learned Additional Public Prosecutor is strongly opposing the present application and the offence is serious, 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. 509 of 2022 registered with Police Station Ramnagar Police Station, Dist. Wardha for the offence punishable under Sections 302, 143, 144, 148, 149, 201, 323 of Indian Penal Code, on furnishing P.R.Bond of Rs.25,000/- with one solvent surety in the like amount;
- iii. The applicant shall attend the concerned Police Station as and when his presence is required;
- iv. The applicant shall not tamper with the prosecution witnesses;
- v. The applicant shall not leave the jurisdiction of the concerned Police Station without permission of the Court.

[ANIL S. KILOR, J.]

Digitally signed
by
SACHINDANAND
K NAIR
Date: 2022.11.23
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