

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

Criminal Application (BA) No. 1344 of 2022

Resham S/o Banduji Jiritkhan

Versus

State of Maharashtra, through Police Station Officer, Police Station
Bramhapuri, Dist. Chandrapur

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

Court's or Judge's Order

Shri S.B.Raut, Advocate for the applicant.

Shri N.R.Rode, APP for the State / Non-applicant

CORAM : ANIL S. KILOR, J.

DATED : 7th DECEMBER, 2022.

The applicant is seeking bail under Section 439 of the Code of Criminal Procedure in Crime No. 111 of 2020 registered with Police Station Bramhapuri, Dist. Chandrapur for the offence punishable under Sections 302, 201 read with Section 34 of Indian Penal Code.

2. The prosecution story is that on the basis of the complaint lodged by one Giridhar Deshmukh, who happen to be Police Patil an offence came to be registered against Premlal and present applicant Resham. The complainant in his complaint has stated that the present applicant, co-accused Premlal and deceased Pramod are real brothers. It has been stated by

the complainant that on 25th February, 2020 when the complainant was present in his house, the present applicant came to his house and informed that the deceased Premlal had fallen from the slab and had a head injury. Accordingly, the applicant was informed by the complainant to take the injured to the hospital. The complainant further states that to inform the said fact he followed the applicant and after going near the injured the complainant saw that there is an injury on the right side of the cheek and there is bleeding from the head and ear and also injuries were seen on the back side of ear. The complainant had further stated that on verification it was found that the injured was then breathing and therefore the complainant asked Resham i.e. the present applicant to take the injured in the hospital. Initially the applicant refused to take the deceased to hospital however when the complainant insisted he took him to Bramhapuri Hospital in a pickup van. The complainant has further stated that after returning from hospital the complainant had asked the applicant as to what had happened and that point of time the applicant informed the complainant that the deceased was habitual drinker and used to pick fight with the brother and mother. He was also in the habit of selling gunny bags of rice for the purpose of drinking

liquor and in the hit of anger the applicant and other co-accused Premlal had assaulted the deceased with the stone and during the course of treatment the deceased succumbed to the injuries. On the basis of the said allegations, the First Information Report came to be registered.

3. Learned counsel for the applicant submits that only on the basis of extra judicial confession the offence came to be registered against the applicant. Whereas, there is no direct evidence to connect the applicant with the alleged offence. He further submits that after completion of investigation, the chargesheet has been filed and therefore further custody of the applicant is not necessary.

4. On the other hand, learned Additional Public Prosecutor while opposing the bail application has pointed out that extra judicial confession as referred in the First Information Report by the informant.

5. However, on a specific query whether there is any witness to the incident i.e. quarrel between the deceased and the accused persons. He replied that none of the witnesses in their statement has stated that they saw the incident. It is significant because it is the case of the applicant that deceased fell from the terrace of his house and even this story is not accepted there is no

direct evidence against the applicant except the circumstances that deceased used to quarrel with the applicant or his mother under the influence of liquor.

6. In the circumstances, as the investigation is completed and there is no direct evidence against the applicant and circumstantial evidence is not so clinging to deny the bail of the applicant, I am of the opinion that the applicant is entitled for grant of bail. Accordingly, I pass the following order.

- i. Criminal application is allowed;
- ii. It is directed that the applicant shall be released on bail in Crime No. 0111 of 2020 registered with Police Station Bhramapuri Dist. Chandrapur for the offence punishable under Sections 302, 201 read with Section 34 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 directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case, as also not to tamper with the evidence.

[ANIL S. KILOR, J.]

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