

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL WRIT PETITION NO.1096 OF 2023

Manoj @ Rupesh Madhav Bankar

..Petitioner

Vs.

The State of Maharashtra
and ors.

..Respondents

Mr.P.S.Magar, Advocate for petitioner
Mr.M.M.Nerlikar, APP for respondent nos.1 and 2

**CORAM : R.G.AVACHAT AND
SANJAY A. DESHMUKH, JJ.
DATE : AUGUST 18, 2023**

ORDER :-

By this petition, the petitioner prays for quashment of the FIR being Crime No.189 of 2022, registered with Harsul Police Station, Aurangabad, for the offences punishable under Sections 307, 323, 504, 506, 114 and 302 read with Section 34 of Indian Penal Code, the consequential Charge Sheet No.113 of 2022 and the proceedings in Sessions Case No.325 of 2023, pending before learned Addl. Sessions Judge, Aurangabad.

2. The petitioner is one of the accused in the said crime. The FIR has been lodged by one Vikas on 03.10.2022. It has been alleged in the FIR that present petitioner and his two associates were present in front of S.B.O.A. High School, near Kabeer Pan Centre, at Jalgaon Road, Aurangabad. The petitioner owed Rs.1,500/- from the informant. The informant made demand therefor. The petitioner refused to pay it and even abused him over the same. The co-accused Swapnil Jadhav was annoyed of the fact of the informant making demand of money from the petitioner. He fished out a knife and rushed towards the informant. The informant's friends – Ravi Kumbhare and Pravin Vanjare intervened to save him. Swapnil gave knife blow on the stomach of Ravi. He also gave knife blow in the back of Pravin. Co-accused Akash assaulted Pravin. Thereafter, the assailants fled. The injured persons were immediately rushed to the hospital.

3. Learned counsel for the applicant would submit that no overt act has been attributed against the petitioner herein. He also took us through the post mortem report filed along with the charge sheet and particularly, column no.2 of the post mortem report.

4. It appears that due to some mistake, that column has been filled up with the matter concerning some other case.

5. Learned APP, therefore, today placed on record a copy of the post mortem report of deceased Ravi (Ravindra) Kumbhare, indicating the deceased to have suffered multiple injuries and he died of the stab injury. The post mortem report placed on record rules out the deceased to have consumed poisonous substance and died thereof. The post mortem report now placed on record by learned APP indicates that the deceased Ravi (Ravindra) Kumbhare died of shock and hemorrhage due to stab wound over the abdomen. He also invited our attention to column 17 of the post mortem report, indicating the deceased to have suffered not less than 15 injuries.

6. Learned APP also invites our attention to the statement of one Sarjerao Surse, recorded under Section 164 of the Code of Criminal Procedure. The statement indicates the petitioner to have instigated the co-accused to fish out a knife for assault on the informant and his friends.

7. As such, we find no case even for issuing notice in this petition. While framing of the charge, the trial court would necessarily give the petitioner hearing and frame appropriate charge against him. With these observations, the petition stands rejected.

[SANJAY A. DESHMUKH, J.]

[R.G. AVACHAT, J.]

KBP