

CRIMINAL BAIL APPLICATION NO. 3402 OF 2022

Kishor Macchindra Sapnar ...Applicant
Versus
State Of Maharashtra And Anr ...Respondents

Mr. S. T. Pandey a/w Mr. Nagesh Avhad, Ms. Anima Mishra, Ms. Kajal Upadhyay and Ms. Ritu Singh for the Applicant.
Ms. Anamika Malhotra, APP, for the Respondent-State.
Mr. R. H. Gaikwad, Sinnar Police Station present.

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CORAM : SHIVKUMAR DIGE, J.

DATE : 4th OCTOBER, 2023.

P.C. :

1. By this application, applicant is seeking bail in C. R. No. 268 of 2019 registered with MIDC Police Station Sinnar, Dist - Nashik for the offences punishable under Sections 302, 307, 326, 504, 427, 506 read with Section 34 of Indian Penal Code, 1860 (for short "IPC").
2. It is prosecution's case that on 24th December, 2019 at about 9:15 a.m. when complainant had gone to his field, at that time applicant and co-accused-Machindra were standing near the said

field. At that time co-accused-Machindra stopped the complainant and was questioning him, the applicant came running there carrying axe and wooden bamboo of spade in his hand. The applicant gave wooden bamboo of spade to the co-accused-Machindra and assaulted with axe handle on the right leg of first informant. Due to said assault, first informant started shouting. By hearing his shouts, his elder brother Sukhdev came there and behind him, the informant's wife-Anita and sister-in-law Alka also came at incident spot. At that time, applicant gave blow of axe on the head of his brother-Sukhdev. Due to said assault, blood was oozing from his head and he fell on the ground. Thereafter, applicant assaulted Anita and Alka with axe, co-accused-Machindra assaulted the first informant. After hearing commotion, informant's other brother Anil and his mother Rangubai came at incident spot. The applicant gave blow of axe on head of Anil due to said blow he fell on the ground and blood was oozing from his head, co-accused Machindra assaulted Rangubai she fell on the ground due to assault, at that time applicant snatched the gold ornaments from her neck. By hearing, screaming of all injured, the villagers came there. Thereafter, applicant and co-accused ran away from the place of incident. While taking treatment

Anil succumbed to injuries.

3. It is contention of learned counsel for the applicant that the role attributed to the applicant is that he assaulted the deceased Anil with an axe on his head which was proved to be fatal assault and ultimately led to his death. Learned counsel further submitted that applicant has been falsely implicated in this case. The incident was happened in spur of moment when the complainant and his five family members attacked on the applicant and his father. The applicant and his father acted in their self defence. There was no intention on the part of the applicant or his father to kill the deceased. The applicant's action was not pre-meditated one. The prosecution has not produced any evidence whatsoever to prove any plan of pre-meditation or any other evidence proving meeting of minds or any kind of conspiracy between father and son to kill the deceased Anil Sapnar. Learned counsel further submitted that, in fact deceased and his brothers assaulted the applicant and his father, they have filed cross complaint against them. They had come in the field of the applicant and started quarrel due to the said act, the incident had happened. Applicant is behind bar for more than three

years. Hence, requested to allow the application.

4. Learned APP submitted that applicant had not assaulted only deceased, but he had assaulted to the witnesses and first informant. Applicant came at incident spot with axe and wooden bamboo of spade. He had given that wooden bamboo of spade to the co-accused-Machindra. It shows he had planning to kill the first informant and immediately applicant had assaulted on the head of first informant. Thereafter, he assaulted sister-in-law of first informant and brother's of first informant. All the blows given by the applicant were on heads of the witnesses as well as deceased. These blows were given on the vital part of the body. Applicant had came with axe to the spot of incident. It shows he had intention to the kill the informant. The axe used in the crime is recovered at the instance of applicant. Hence, requested to reject the application. Learned APP further submitted that applicant had two criminal antecedents and both are bodily offences.

5. I have heard both learned counsel. Perused FIR and charge-sheet.

6. Allegations against the applicant are that he had assaulted the deceased with axe on his head. It appears from record that applicant had not only assaulted the deceased, but he had assaulted first informant and other witnesses with Axe, on their heads. The statements of eye witnesses specifically state about the role played by the applicant. It shows that applicant had assaulted on the vital parts of the body of witnesses and deceased. Applicant had come to incident spot with axe. It shows that he had intention to kill the deceased and witnesses. The axe used in the crime is recovered at the instance of applicant. Mere filing of the counter case against the first informant and his family members cannot be a ground to grant bail to the applicant. It appears from record that incident was not happened in spur of moment. Two criminal cases under Sections 326, 325 of the Indian Penal Code and under Sections 294 read with 34 of the Indian Penal Code are registered against the applicant.

7. In view of above, I pass following order.

ORDER

Application is rejected.

(SHIVKUMAR DIGE, J.)