

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

Criminal Application (BA) No. 126 of 2023

Naresh Ramrao Jadhav

Versus

State of Maharashtra, through Police Station Officer, Barshitakli, Tq.
Barshitakli, Dist. Akola

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

Court's or Judge's Order

Shri S.V.Sirpurkar, Advocate for the applicant.
Ms. Shamsi Haider, Advocate for the non-applicant/
State.

**CORAM : ANIL S. KILOR, J.
DATED : 3rd MAY, 2023.**

Heard.

2. By this application under Section 439 of the Code of Criminal Procedure, the applicant is seeking bail in Crime No. 84 of 2022 registered with Police Station Barshitkali, Dist. Akola for the offences punishable under Sections 302, 307, 324, 504, 506 of Indian Penal Code.

3. Shri Sirpurkar, learned counsel for the applicant submits that on 21st July, 2022, the earlier application was withdrawn with liberty to move after six months, if there is no progress in the trial. It is

submitted that the applicant is in jail for about 15 months and even till date the charge is not framed. He therefore, submits that considering the fact that earlier offence was registered under Section 307 of Indian Penal Code and on the death of deceased after 25 days of the incident, the offence was registered under Section 302 of Indian Penal Code, the applicant may be released on bail.

4. On the other hand, learned Additional Public Prosecutor strongly opposed the application and submits that there was a grievous head injury and because of the same the deceased was hospitalized for 25 days and he died because said head injury. She, therefore, submits that in this case section 302 of Indian Penal Code would attract and thus considering the seriousness of offence, the applicant may not be released on bail.

5. Earlier the application was withdrawn by the applicant with liberty to move a fresh application after six months, if there is no progress in the trial. Learned Additional Public Prosecution is not disputing the fact that the charge is not yet framed. However, she submits that in the month of January, 2023, an application for discharge was filed and therefore, the matter was fixed for hearing on the said application.

However, she has not pointed out the progress from July, 2022 to January, 2023.

6. Be that as it may. In the present offence there is one head injury and the deceased was hospitalized because of the same. He was taken hospitalized for 25 days and after the period of 25 days he died because of death his head injury.

7. From the contents of the FIR and the material collected during the investigation, *prima facie* it cannot be said that there was an intention of the applicant to kill the deceased. In the circumstances, considering the period of incarceration which is more than 15 months and the fact that the chargesheet was filed long back, I am of the opinion that the applicant should be released on certain stringent condition. Accordingly, I pass the following order.

- i. It is directed that the applicant shall be released on bail in Crime No. 84 of 2022 registered with Police Station Barshitkali, Dist. Akola for the offences punishable under Sections 302, 307, 324, 504, 506 of Indian Penal Code, on furnishing P.R.Bond of Rs.25,000/- with one solvent surety in the like amount;
- ii. The applicant shall not enter into territorial jurisdiction of Barshitakli Police Station, Dist. Akola till the trial is concluded.

- iii. The applicant shall provide his address and name of nearby police station, which he shall attend on 1st and 16th each month between 11 am to 12 noon;
- 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. Needless to mention, in case of breach of condition, the State can apply for cancellation of bail.

[ANIL S. KILOR, J.]

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by
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