

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CRIMINAL APPLICATION (BA) NO.190 OF 2023

Vinod alias Khanna Janardhan Tupsundare

Vs.

State of Maharashtra, through PSO, PS Dattapur, Taluka Dhamangaon
Railway, District Amravati

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's Orders.

Court's or Judge's orders.

Shri P.R. Agrawal, Advocate for applicant.

Shri I.J. Damle, APP for non-applicant/State.

CORAM : URMILA JOSHI-PHALKE, J.

DATE : JULY 27, 2023.

The present application is for grant of bail in connection with Crime No.506/2022 registered with Police Station, Dattapur, Taluka Dhamangaon Railway, District Amravati for the offence punishable under Sections 324, 326, 302 read with Section 34 of the Indian Penal Code. The applicant is arrested on 03.09.2022 and since then he is in jail.

2. The accusation against the present applicant is on the basis of report lodged by mother of deceased Monika Bhaurao Sahare. As per her allegation on 27.08.2022, deceased Mahendra, her son, came near Buddha Vihar under the influence of liquor. She asked one Pravin Keshav Rane to bring him at home. When deceased was coming towards home the present applicant and other co-accused assaulted him by means of stick, knife and piece of tile. Initially, the

deceased has sustained grievance injury therefore he was admitted in hospital. During treatment, he succumbed to death.

3. As per the contention of the present applicant, as far as the role attributed to him is concerned, he has given blow by means of the knife on the face of the deceased. The deceased has not sustained any injury due to the knife, as per medical certificate. Now the investigation is completed and charge-sheet is filed. For sufficient period he is already behind bar, other co-accused is released on bail. In view of that, he prays for grant of bail.

4. The said application is strongly opposed by the learned APP for State on the ground that there is a prima facie material against the present applicant and direct evidence in the nature of eye witness is available to connect the present applicant with the alleged offence. If the applicant is released on bail, he will tamper with the prosecution evidence. The death of the deceased is caused due to the injuries sustained by him and therefore prays for rejection of the application.

5. Heard Shri Agrawal, learned counsel for the applicant. He reiterated the contentions and invited the attention towards the postmortem report as well as the query report, which shows that the deceased has not sustained injury due to the knife. He further submitted that the cause

of death of the deceased is due to trauma on chest. There is no allegation that the present applicant has assaulted the deceased by targeting his chest. Now investigation is completed further custody of the present applicant is not required, hence, he be released on bail.

6. Learned APP reiterated the contentions and strongly opposed the application.

7. Having heard both sides and on perusal of the investigation papers, it reveals that the alleged incident has taken place on 27.08.2022, the present applicant as well as other co-accused assaulted the deceased by means of a knife and stick. As far as the role of the present applicant is concerned, it is alleged that he has assaulted the deceased by means of a knife on his face. Initially, the deceased was admitted to the hospital while taking treatment he succumbed to death. The postmortem report shows that the deceased has sustained injuries on his face as well as other parts of the body. The cause of the death of the deceased is blunt trauma on his chest. All the incriminating articles are referred to the medical officer for obtaining his opinion. As per the opinion of the medical officer, the injuries sustained by the deceased on the face are not caused due to the article knife. Admittedly, there is an eye witness to the incident who has narrated the role of the present applicant. However, considering the death of the deceased is not caused due to the assault on the face but it was caused due to the trauma

on the chest. There is no allegation against the present applicant that he has assaulted the deceased on his chest. There was no instantaneous death of the deceased due to the said injury. Considering all these aspects and considering the fact that the applicant is behind bars since the date of his arrest. Now the investigation is completed and charge-sheet is filed, no purpose will be served by keeping him behind bars. The trial will take its own time for the final decision. In view of that, the application deserves to be allowed by imposing certain conditions. Accordingly, I proceed to pass the following order:

ORDER

- i. The criminal application is allowed.
- ii. The applicant – Vinod alias Khanna Janardhan Tupsundare be released on bail in connection with Crime No.506/2022 registered with Police Station, Dattapur, District Amravati for the offence punishable under Sections 324, 326, 302 read with Section 34 of the Indian Penal Code, on executing PR bond in the sum of ₹25,000/- with one solvent surety in the like amount.
- iii. The applicant shall furnish cellphone number and address with address proof. In addition, the applicant shall also furnish the names of his two relatives and their address with address proof.

iv. The applicant shall not enter in the jurisdiction of Police Station, Dattapur, Taluka Dhamangaon Railway, District Amravati, without prior permission of the Court, till conclusion of the trial.

v. The applicant shall not tamper prosecution evidence or shall not induce, threaten or pressurize any witness, who are connected with the crime.

With this, the application is disposed of.

JUDGE

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