

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

CRIMINAL APPLICATION (BA) NO.360 OF 2023
(Ramjan Abbas s/o Mohd. Sheikh Vs. State of Maharashtra)

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

Court's or Judge's Order

Shri S.M. Matey, Advocate for the applicant.
Shri A.M. Kadukar, APP for the State.

CORAM:- URMILA JOSHI-PHALKE, J.
DATED :- JULY 11, 2023.

Heard.

2. Present application is for grant of bail under Section 439 of the Code of Criminal Procedure in connection with Crime No.328/2022 registered at police station Wathoda, Nagpur for the offence punishable under Sections 302, 326 read with Section 34 of the Indian Penal Code.

3. The applicant has been arrested on 07/09/2022.

4. As per the allegation in the FIR the co-accused Mohd. Ifran and the deceased are the son and father. There was a dispute between them. The accusation against the present applicant is that on 12/08/2022 he along with the other co-accused in furtherance of their common intention have committed the murder of one Javed Ali.

5. Said application is strongly opposed by the State on the ground that the allegation against the present applicant is that he has not only assaulted the deceased by fists and kick blows but also dragged him from one place to another. The deceased has sustained multiple injuries and succumbed to the death.

6. Considering the *prima facie* material against the present applicant, his bail application deserves to be rejected.

7. Heard learned Counsel for the applicant. He submitted that the applicant is entitled to be released on bail on the ground of parity as the co-accused Sher Khan @ Sheroo s/o Mujawar Khan is already released on bail against whom also the allegation of assault by fist blows. He further submitted that in the FIR the name of the present applicant is not there as well as the eye-witness who is the real sister of the deceased has also not assigned any role to the present applicant.

8. Considering the role as per the other witnesses is only to the extent of assault by the fist blows and as per the statement of one of the witness he has dragged the deceased which is not sufficient to show that he was sharing the common intention.

9. Considering the other co-accused is already released on bail, he be released on bail as investigation is completed and charge-sheet is filed.

10. Learned Additional Public Prosecutor reiterated the contention and submitted that the role of the present applicant is not similar to the co-accused who is already released on bail, therefore, ground of parity is not available, there is a *prima facie* material against the present applicant and hence, bail application deserves to be rejected.

11. Having heard both the sides and after going through the statements, there appears to be two witnesses to the crime, one is Ashish Tagde and another is Shahrukh Pathan. The statement of these witnesses shows that the present applicant not only assaulted the deceased by fists and blows but also dragged him with one place to another. Thus, as per the allegation, no weapon is assigned to the present applicant. The FIR does not reflect the name of the present applicant as an assailant. The sister of the deceased who is also one of the eye-witness has also not assigned any role to the present applicant. Even considering these statements only role assigned to the present applicant is that he has assaulted the deceased by fist blows and dragged the deceased. Admittedly, multiple abrasion injuries are witnessed on the person of the deceased. However, considering that co-accused to whom the similar role is assigned is already released on bail. Now, the investigation is completed and charge-sheet is filed. The trial will take its own time to conclude the same. Considering the role of the present applicant to whom no other paper is assigned. The application

deserves to be allowed by imposing certain conditions.

Hence, I proceed to pass the following order :

(i) The application is allowed.

(ii) The applicant - Ramjan Abbas s/o Mohd. Sheikh be released on bail in Crime No.328/2022 registered at police station Wathoda, Nagpur for the offence punishable under Sections 302, 326 read with Section 34 of the Indian Penal Code, on he executing P.R. Bond in the sum of ₹25,000/- with one surety in the like amount.

(iii) The applicant shall attend concerned Police Station as and when required for the investigation purpose.

(iv) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case and shall not tamper the prosecution evidence.

(v) The applicant shall furnish his Cell phone number and address along with the address proof before the Investigating Officer.

Corrected as per Hon'ble
Court's order dated
14.07.2023.

Personal Assistant

(URMILA JOSHI-PHALKE, J.)