

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

CRIMINAL APPLICATION (BA) NO.424 OF 2023

Ganesh Suresh Hawa

Vs.

The State of Maharashtra Through Police Station Officer Police Station Janefal,
District Buldhana

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

Court's or Judge's orders

Mr. Mir Nagman Ali, Advocate for applicant.
Mr. A. M. Kadukar, APP for respondent/State.

CORAM : URMILA JOSHI-PHALKE, J.

DATED : 22/06/2023

1. The present application is filed by the applicant for grant of bail under Section 439 of the Code of Criminal Procedure in connection with Crime No.77/2023 registered with Police Station Janefal, District Buldhana for the offence punishable under Section 326 read with Section 34 of the Indian Penal Code and subsequently converted under Section 302 of the Indian Penal Code. The applicant is arrested on 25.03.2023 and since then he is in jail.

2. The crime is registered on the basis of report lodged by Anil Wamanrao Changade on an allegation that on 07.03.2023 at about 5.00 p.m. his younger brother informed him that he is proceeding for dinner along with his friend. At about 9.00 p.m. he received the information that his brother has sustained the injury and

admitted in the hospital. On inquiry, he came to know that when his brother had been to the agricultural field of one Parshuram Borade for having dinner. At that time, one Sagar Ashok Borade slapped him and present applicant pushed him. At that time, co-accused Suraj Parshuram Borade assaulted him by means of kicks and blows on his private part. Immediately, he was shifted to the hospital. However, during treatment, he succumbed to the death. On the basis of the said report, police have registered the offence against the present applicant and other co-accused.

3. As per contention of the present applicant that as far as the role of the present applicant is concerned, only allegation against the present applicant is that, he pushed the deceased. No overt act is attributed to the present applicant. Now investigation is completed. Charge-sheet is filed. No purpose will be served by keeping the present applicant behind bar. The co-accused to whom the role of assault was assigned is already released on anticipatory bail. Considering the role of the present applicant, he be released on bail.

4. The said application is strongly opposed by the State on the ground that present applicant along with co-accused in furtherance of their common intention assaulted the deceased and caused his death. Thus, prima

facie material is against the present applicant to show his involvement and prays for rejection of the bail.

5. Heard learned Counsel Mir Nagman Ali for the applicant and learned APP for the State. Perused the investigation papers from the recitals of the FIR and the statements of the witnesses, it reveals that only role assigned to the present applicant is that he has pushed the deceased. The statement under section 164 of the Cr.P.C. is also recorded of one Ananda who is the alleged eye witness. Present applicant has assigned the role that he only pushed the deceased. The co-accused Suraj Borade is already released on bail who has assaulted the deceased by kick and fist blows and by assaulting on his private part. Thus, major role assigned to one Suraj is already released on bail.

6. Considering the role of the present applicant and considering the fact that he is already in jail for considerable period and no purpose will be served by keeping him behind bar. Now investigation is completed and charge-sheet is filed. The present application is deserves to be allowed by imposing certain conditions. Accordingly, I proceed to pass the following order.

(i) Application is allowed.

(ii) The applicant – Ganesh Suresh Hawa, is released on bail in connection with Crime

No.77/2023, registered with Janefal Police Station, District Buldhana, on executing of PR bond in the sum of Rs.25,000/- with one solvent surely in the like amount.

(iii) The applicant shall submit his mobile/ phone number, along with his address with address proof.

(iv) The applicant shall not induce threat or promise any other witnesses who are connected with the alleged crime.

(v) The applicant shall not leave the jurisdiction of Janefal Police Station, District Buldhana without prior permission of the Sessions Court, Mehkar.

The application is disposed of

(URMILA JOSHI-PHALKE, J.)

Sarkate