



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

CRIMINAL APPLICATION (BA) NO. 529 OF 2023

(SHEIKH ALFAZ @ SURAJ S/O. SHEIKH JALIL
VS.

THE STATE OF MAHARASHTRA THROUGH PSO PS YASHODHARA NAGAR, DISTRICT NAGPUR)

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders.

Mr. C. R. Thakur, Advocate for applicant.
Mr. M. J. Khan, APP for respondent State.

CORAM : M. W. CHANDWANI, J.
DATE : 08/09/2023

By the present application, the applicant is seeking regular bail in Crime No.677/2022, for the offence punishable under Sections 302, 201 read with Section 34 of the Indian Penal Code, 1860, registered at Police Station Yashodhara Nagar, District – Nagpur.

2. Heard learned counsel for the applicant, as well as learned APP for the respondent State.

3. Perused the application, reply filed by the State and entire charge-sheet. The applicant was working as a labour at brick kiln of co-accused Sanjay Mate. The applicant was residing along with deceased in a hut situated in the premises of brick kiln. It appears that quarrel took place between the applicant and deceased. The other neighbour

labourers of brick kiln called owner Nilesh Harode. When Nilesh Harode along with co-accused Sanjay Mate went on the spot; they found that deceased was lying in injured condition inside the hut. The applicant made extra judicial confession about assault made by him on the person of deceased by means of brick. Therefore, applicant and co-accused Sanjay Mate took the deceased on motorcycle by saying that they were taking him to the hospital. However, they left the deceased in the premises of Hanuman Temple.

4. It is submitted on behalf of learned counsel for the applicant that there is no direct evidence with regard to alleged assault. The investigation is already over. The charge-sheet has already been filed. According to him, the applicant will not flee away from the justice and applicant has no intention as such.

5. Learned APP strongly opposed the application and submitted that the applicant has committed a serious offence of murder. According to him, considering the gravity of offence and severity of punishment, the regular bail application filed by the applicant deserve to be rejected.

6. Thus, perusal of the charge-sheet goes to show that there is evidence in the form of extra judicial confession and in the form of CCTV footage that the applicant and co-accused Sanjay Mate were carrying away the deceased Ravi Dhande towards the Hanuman Temple. Blood stained cloths were also recovered at the instance of applicant.

7. From the above said material *prima facie* it appears that the incident had occurred in a sudden quarrel, which can be seen from the fact that the deceased was assaulted by means of brick which was lying in the brick kiln. Thus, the alleged act of assault is not done with pre-meditation. The charge-sheet has already been filed. Trial will takes its own time. Considering the above said material, discretion of grant of bail can be exercised in favour of the applicant. Hence the following order :-

ORDER

(a) The application is allowed.

(b) The applicant shall be released on bail on furnishing PR bond of **Rs.50,000/-** (Rupees Fifty Thousand only) with one solvent surety in the like amount.

(c) The applicant shall regularly attend and cooperate the learned trial Court to complete the trial for the above offence. The

applicant shall not seek adjournments, except under extreme circumstances to the satisfaction of the trial Court.

(d) The applicant shall not directly or indirectly make any inducement, threat or promise to any witness acquainted with the facts of the case so as to dissuade him/her from disclosing such facts to the Court or any Police Officer.

(e) In case of breach of any conditions, the learned trial Court is at liberty to cancel the bail after giving opportunity of hearing to both the sides.

(f) The trial Court shall not be influenced by the observation prima facie made in this order and shall decide the trial on its own merit.

Application is disposed of.

[M. W. CHANDWANI J.]