

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

CRIMINAL APPLICATION (BA) NO. 544/2023

Laxmibai Raju Chavhan and another V/s 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

Mr. S.S.Sheikh, counsel for applicants

Mr. S.M.Ghodeswar, APP for the non-applicant/State.

CORAM : URMILA JOSHI-PHALKE, J.

DATED : 09/08/2023.

1. Heard.
2. The present application is for grant of bail under Section 439 of the Code of Criminal Procedure, 1973, in connection with Crime No. 341/2022 registered with Police Station Vasant Nagar, Pusad, District Yavatmal, for the offences punishable under Sections 302, 143, 147, 148, 504 read with Section 149 of the Indian Penal Code. The applicants are arrested on 03/11/2022.
3. The accusations against the present applicants is that on 03/11/2022, the co-accused and the present applicants who are neighbors and carrying on the business of selling liquor. The deceased has lodged report against them. Due to the said report, the present applicants and other co-accused got annoyed and threatened the deceased that they would kill him

on 02/11/2022 at about 8.00 p.m. when the deceased was sleeping outside the house, he was attacked by the co-accused and assaulted by wooden log on his head. The co-accused also used a weapon like an iron pipe and dealt a blow by stone on the head of the victim. As far as the present applicants are concerned, it is alleged that they have thrown chilly powder in the eyes of the victim and thereafter, the other co-accused have assaulted the deceased. Due to the said assault, the deceased succumbed to the injuries. On the basis of said report, the police have registered the crime against the present applicants.

4. As per the contention of the present applicants, due to the previous dispute, they are implicated falsely in the alleged offence. In fact, they are not involved in the alleged incident. Even if the role of the present applicant is taken into consideration, it is not substantiated by the medical report. The medical officer in his query report, specifically stated that no chilly powder was found on the person of the deceased. Thus, no prima-facie case is made out against the present applicants. Now, the investigation is completed charge-sheet is filed, further custody of the present applicant is not required and they be released on bail.

5. The said application is strongly opposed by the State on the ground that present applicants thrown the chilly power in the eyes of the deceased and thereafter, other co-accused have assaulted him. Thus, the entire act is committed in furtherance of common intention and common object, if the present applicants are released on bail, they will tamper the prosecution evidence.

6. Having heard learned counsel for the applicants and learned APP for the State. Perused the investigation papers. As far as the allegation against the present applicants is concerned, it is alleged that they have thrown the chilly powder in the eyes of the deceased, and thereafter other co-accused have assaulted the deceased. The incriminating articles are forwarded to the medical officer to obtain his opinion, the medical officer has specifically opined that no chilly powder was found on the person of the deceased. The P.M. Report shows that the death of the deceased is caused due to the head injury. Now, the investigation is completed and charge-sheet is filed. Considering the role of the present applicants, no further custody of the present applicants is required and no purpose will be served by keeping them behind bar.

In view of that, the criminal application is allowed by imposing certain conditions;

- a. Criminal application is allowed.
- b. The applicants are released on bail, in connection with Crime No. 341/2022 registered with Police Station Vasant Nagar, Pusad, District Yavatmal, for the offences punishable under Sections 302, 143, 147, 148, 504 read with Section 149 of the Indian Penal Code, on executing P.R. Bond of Rs. 25,000/- each of the applicant with one solvent surety of the like amount.
- c. The applicants shall not induce, threat or promise who are connected with the alleged crime.
- d. The applicants shall furnish their cell phone number with address along with address proof.

Criminal application is **disposed of**.

JUDGE