

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

CRIMINAL APPLICATION (BA) NO.551 OF 2023

Gajanan Maroti Mukade

Vs.

State of Maharashtra through Police Station Pofali, District Yavatmal

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

Court's or Judge's orders

Mr. S. S. Sheikh, Advocate for applicant.
Mr. S. M. Ghodeswar, APP for respondent/State.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 20/07/2023

1. The present application is for the grant of bail under Section 439 of the Code of Criminal Procedure in connection with Crime No.301/2022, registered with Police Station, Pofali, District Yavatmal for the offence punishable under Section 302 of the Indian Penal Code. The applicant is arrested on 23.11.2022 since then he is in jail.

2. The accusation against the present applicant is on the basis of the crime registered against one unknown person vide Crime No.301/2022. As per the recitals of the FIR, on 22.11.2022 the deceased and his wife had been to the house of the present applicant as there is relation between the present applicant and the deceased. The wife of the deceased and the wife of the present applicant are sisters. As per the allegation on

21.11.2022, there was some dispute between the present applicant and the deceased. After the quarrel, the present applicant and his wife went in the agriculture field and the deceased by taking the axe in his hand left the house and ran towards the agriculture field. He was followed by the present applicant as well as the wife of the deceased and wife of the present applicant. When they reached at some distance in one agriculture field wife of the deceased has seen that the present applicant was lifting the deceased on his shoulder. On the basis of the said, the crime was registered against the present applicant.

3. As per the contention of the present applicant, there is absolutely no direct or circumstantial evidence against the present applicant. The wife of the deceased even has not raised any suspicion against him. The police have implicated him maliciously and falsely merely because he has lifted the dead body of the deceased. Now, the investigation is completed and chargesheet is filed. No purpose will be served by keeping the present applicant behind bar.

4. The said application is strongly opposed by the State on the ground that offence is of grievous nature, if the applicant/accused is released on bail, he will tamper with the prosecution evidence and oppose the bail application.

5. Heard learned Counsel for the applicant and learned APP for the State. Perused the investigation papers. Admittedly, the FIR is lodged against the unknown person. From the statement of the wife of the deceased, it reveals that prior to the incident there was some trifle quarrel between the present applicant and the deceased. After said quarrel, the present applicant along with his wife went to the agricultural field. The deceased was suffering from mental disorders and he obtained the axe in his hand and left the house. He was followed by the present applicant, at the request of the wife of the deceased. The wife of the deceased and another relative also followed the present applicant after proceeding to some distance. They witnessed the present applicant returning by lifting the deceased on his shoulder. The statement of the wife of the deceased is recorded. She has not even raised any suspicion against the present applicant. The relevant statements are also recorded which are on a similar line. Thus, it is apparent that only because the deceased was found in injured condition and the present applicant has brought him on his shoulder, hence he is implicated. There is absolutely no material in the nature of direct evidence or circumstantial in nature, except the memorandum statement of the applicant. Now, the investigation is completed and chargesheet is filed. The applicant is behind bar for a sufficient period. No purpose will be served by keeping him behind bar. Considering the nature of the evidence

against the present applicant, he has made out the case for grant of bail. Accordingly, I proceed to pass following order.

- (i) The application is allowed.
- (ii) The applicant **Gajanan Maroti Mukade** is released on bail, in connection with Crime No.301/2022, registered with Police Station, Pofali, District Yavatmal for the offence punishable under Section 302 of the Indian Penal Code, on executing PR bond in the sum of Rs.25,000/- with one solvent surety in the like amount.
- (iii) The applicant shall not induce, threat or promise any witnesses who are connected with the alleged crime.
- (iv) The applicant shall attend the trial Court regularly.

The application is disposed of.

(URMILA JOSHI-PHALKE, J.)

Sarkate