

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

CRIMINAL APPLICATION (BA) NO.557 OF 2023

Dhanraj S/o Nimbaji Gurnule Vs. State of Maharashtra

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

Court's or Judge's orders.

Shri D.K. Hazare, Advocate for applicant.
Shri A.M. Kadukar, APP for non-applicant/State.

CORAM : URMILA JOSHI-PHALKE, J.
DATE : JULY 31, 2023.

The present application is for grant of bail under Section 439 of the Code of Criminal Procedure in connection with Crime No.124/2022 registered with Police Station, Pathari, District Chandrapur for the offences punishable under Sections 302, 307, 201 read with Section 34 of the Indian Penal Code. The applicant is arrested on 05.09.2022 and since then he is in jail.

2. The present applicant is the real brother of the deceased Manohar Gurnule. As per the allegation, on 05.09.2022, when the informant was taking bath, he heard a noisy quarrel between the applicant and Manohar Gurnule. Therefore, after taking bath he immediately proceeded towards the house of Manohar Gurnule and witnessed that the present applicant – Dhanraj has dropped an iron spear (barshi) at the spot of the incident and Manohar and his wife; Sharda were lying in injured condition on the spot. The iron spear was also lying there with blood stains on it. On

the basis of said report, the police have registered the crime against the present applicant. Subsequently, the injured Sharda Manohar Gurnule also succumbed to death.

3. As per the contention of the present applicant, there was a previous dispute between him and his brother Manohar on account of well, therefore, he is falsely implicated in the alleged offence. Except the statement of the informant, there is no material to connect him with the alleged offence. Now the investigation is completed and charge-sheet is filed. His further custody is not required and no purpose will be served by keeping him behind bars.

4. The said application is strongly opposed by the State on the ground that the informant has witnessed the present applicant dropping the weapon at the spot of the incident. Deceased Manohar succumbed to death instantaneously after receipt of the assault, whereas another injured succumbed to death subsequently. Deceased Manohar sustained ten injuries on his person. The cause of the death of the deceased Manohar is due to injury on the vital organ with hemorrhage and shock. Injured Sharda was also scummed to death. Though investigating agency attempted to record her statement but as she was seriously injured they could not record her statement.

5. At this stage, the entire case is rested on the evidence of the informant. On perusal of the investigation paper, the

weapon was also referred to the medical officer for obtaining the opinion. The medical officer opined that the injuries sustained by both the deceased are possible by the weapon, which was recovered from the spot of the incident. There is a specific allegation against the present applicant, on the basis of report lodged by the informant, that he has witnessed the present applicant dropping iron barshi at the spot of the incident, which connects the present applicant with the alleged offence. Two persons have lost their lives in the said incident. *Prima facie*, a case is made out against the present applicant. In view of that, the application deserves to be rejected. Accordingly, the criminal application is rejected.

JUDGE

Wagh