



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

CRIMINAL APPLICATION [BA] NO.607 OF 2023

[Sannabano @ Najema Parveen Shaikh Anis .vs. State of Maharashtra, Through P. S.O. P.S. Dharni,
District-Amravati]

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

Court's or Judge's orders

Shri N.P. Singhania, Advocate for Applicant,
Shri A.M. Kadukar, APP for Non-Applicant-State,
Shri P.R. Agrawal, Adv. a/w Ms. Aastha Sharma, Adv. Assist to prosecution.

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CORAM : M.W. CHANDWANI, J.

DATE : 25/08/2023.

1. The applicant seeks bail in Crime No.228/2022 registered at Police Station, Dharni, District-Amravati for offence punishable under Sections 302, 109 read with 34 of the Indian Penal Code.

2. Heard Shri N.P. Singhania, the learned counsel for the applicant, Shri A.M. Kadukar, the learned Additional Public Prosecutor for the non-applicant-State and Ms.Aastha Sharma, learned counsel, who assisted the prosecution. Perused the charge-sheet.

3. It is contended on behalf of the learned counsel for the applicant that the applicant is a lady. She has not committed any offence. She has been involved falsely in this case. According to him, the deceased was aggressor and he went to the house of the accused persons. Though,

there is allegation of stab injury, but the cause of death of deceased is 'due to septicemia following perforation peritonitis in an operated case of stab injury abdomen'. According to him, the injuries were simple in nature, however, just because of negligence on the part of Doctor, who did not treat the injury properly, deceased died. He submits that none of the injury is attributed to the present applicant. The allegation of abetment of crime is levelled against the present applicant. He vehemently submits that the investigation is over and charge-sheet is filed, therefore, the discretion of bail can be exercised in favour of the applicant.

4. *Per contra*, the learned Additional Public Prosecutor for non-applicant-State assisted by Ms. Aastha Sharma vehemently submits that it is the applicant who instigated the main accused by saying “हा चाकु घ्या त्याला मारा”. On the instigation by the present applicant, the stab injury inflicted by the accused on the deceased. There is dying declaration of the deceased and it is treated as First Information Report, which spells out the role played by the applicant in commission of crime, therefore, the bail is opposed and hence, the application of the applicant be rejected.

5. Perusal of the case diary reveals that the deceased went to the house of the accused, who is uncle of the deceased and asked him as to why he abused his younger

brother? The co-accused gave a stick blow on his head. At that time, the present applicant asked co-accused no.1 'have this knife and kill him'. Thereafter, accused no.1 gave knife blow on his knee and abdomen. The charge-sheet further reveals that on complaint of the deceased, initially, the offence under Sections 307, 109 read with section 34 of the Indian Penal Code came to be registered against the present applicant and co-accused. He was admitted in the hospital for 17 days and, thereafter, he was referred to Government Medical College and Hospital at Nagpur where he died due to septicemia following perforation peritonitis in an operated case of stab injury abdomen, therefore, the offence under section 302 of the Indian Penal Code was added. There is *prima facie* case against the present applicant, which he abetted the main accused, whereby the main accused gave assault of knife blow to the deceased.

6. Evidently no assault is attributed to the present applicant and the injury is caused by other co-accused. It can also be seen from postmortem report that the cause of death is 'due to septicemia following perforation peritonitis in an operated case of stab injury abdomen'. It is also to be noted that the investigation is over and charge-sheet has been filed. The applicant is a lady. Considering the above said aspects and the role assigned to the present applicant where no injury is attributed to her, I think discretion of bail can be exercised in favour of the applicant on imposing certain conditions. Hence, I pass the

following order :

O R D E R

(i) Applicant - Sannabano @ Najema Parveen Shaikh Anis be released on bail on furnishing P. R. Bond of Rs.50,000/- with one solvent surety in the like amount.

(ii) Since the family of deceased and the family of present applicant are neighbourers, it is hereby directed that the applicant shall not enter in the jurisdiction of Police Station, Dharni, District-Amravati, until further order.

(iii) Criminal Application stands disposed of. Hamdast is granted.

(M.W. Chandwani, J.)