

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

CRIMINAL APPLICATION (BA) NO.628 OF 2023

Mihir Shekhar Hate 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 R.H. Rawlani, Advocate for applicant.
Shri M.J. Khan, APP for non-applicant/State.

CORAM : URMILA JOSHI-PHALKE, J.

DATE : AUGUST 09, 2023.

The present application is for grant of bail under Section 439 of the Code of Criminal Procedure in connection with Crime No.1346/2022 registered with Police Station, Pachpaoli, District Nagpur for the offences punishable under Sections 143, 147, 148, 149, 302 read with Section 34 of the Indian Penal Code. The applicant is arrested on 28.12.2022 and since then he is in jail.

2. The accusation against the applicant is on the basis of report lodged by Harsh Ganesh Gotulwar on an allegation that due to the previous enmity between the deceased and the co-accused Ashok Gupta. Said Ashok Gupta has instigated another co-accused Lokesh alias Lucky Gupta to kill the deceased. Thereafter, the co-accused gave blow by a knife on the vital part i.e. abdominal portion on the neck and on the face of the deceased. At the relevant time, the present applicant also assaulted the deceased by fist and kick blows and thereafter all the accused fled away from the spot of the

incident. On the basis of the report, the police have registered the crime against the present applicant and co-accused.

3. As per the contention of the present applicant, he is maliciously and falsely implicated in the alleged offence. The deceased was having criminal background and he was a hardened criminal. He was involved in more than ten criminal cases. As far as the role attributed to the present applicant is concerned, he assaulted the deceased by fist and kick blows. No weapon was in the hands of the present applicant. The cause of death of the deceased is due to injuries to vital organs, which are attributed to the co-accused. Now the investigation is completed and charge-sheet is already filed. The present applicant is behind bars for a sufficient period. Considering the same, he be released on bail.

4. The said application is strongly opposed by the State on the ground that the present applicant, who had participated in the assault on the deceased. The applicant along with the co-accused arrived at the spot with their common intention and the co-accused gave a blow to the vital part of the body and caused his death. Considering the prima facie case that is the statements of the eyewitnesses show the involvement of the present applicant in the alleged offence, his bail application deserves to be rejected.

5. Heard the learned counsel for the applicant and learned APP. A perusal of the entire investigation papers. The recitals of the FIR, as well as the statements of various witnesses, disclose that in the alleged incident, co-accused Ashok Gupta instigated the other co-accused Lokesh alias Lucky and said Lokesh gave a blow by knife on the vital part of the body of the deceased. As far as the allegation against the present applicant is concerned, it is alleged that he has assaulted the deceased by fist and kick blows. The investigation is now completed and the charges-sheet is filed. As far as the cause of death is concerned, it is mentioned as death due to injury on the vital part of the body. Admittedly, said injuries are not attributed to the present applicant but those injuries are attributed to the co-accused. Considering that investigation is completed and charge-sheet is filed and the role of the present applicant is to the extent of assault by fist and kick blows, his application for bail can be considered. In view of that, I proceed to pass the following order:

ORDER

- i. The criminal application is allowed.
- ii. The applicant – Mihir Shekhar Hate be released on bail in connection with Crime No.1346/2022 registered with Police Station, Pachpaoli, District Nagpur for the offences punishable under Sections 143, 147, 148, 149, 302 read with

Section 34 of the Indian Penal Code, on executing PR bond in the sum of ₹25,000/- with one surety in the like amount.

iii. The applicant shall furnish the cellphone number and address with address proof. In addition, the applicant shall also furnish the names of his two relatives and their address with address proof.

iv. The applicant shall not tamper with prosecution evidence or shall not induce, threaten or pressurize any witness, who are connected with the crime.

With this, the application is disposed of.

JUDGE

Wagh

Signature Not Verified

Digitally Signed By: SURESH RAOSAHEB
WAGH
Personal Assistant to Hon'ble
Judge, High Court of Bombay, Nagpur
Bench, Nagpur.
Signing Date: 17.08.2023