



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

CRIMINAL APPLICATION (BA) NO. 629/2023

Pedu s/o Chaitu Talani and others 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. A.C. Jaltare, counsel for applicants.

Mrs. M.A.Barbde, APP for the non-applicant/State.

CORAM : URMILA JOSHI-PHALKE, J.

DATED : 14/12/2023.

1. By this application, the applicants are seeking bail in connection with Crime No.03/2019 registered with Police Station Perimili, District Gadchiroli for the offences punishable under Sections 302, 323, 506 read with Section 34 of the Indian Penal Code, 1860 and under Sections 3, 25 of the Indian Arms Act. The applicants are arrested on 12/06/2019.

2. The accusations against the present applicants are on the basis of report lodged by Raje Sadhu Talandi on an allegation that on 7/6/2019, she along with her family members and the deceased were in the agricultural field, at about 2 to 3 a.m. somebody had called as Didi .. Didi. Thereafter, she along with other two family members woke up and saw that there were four persons, who were asking for

water. Out of four person, one was holding a gun in his hand. She has identified these persons as Karpa Masa Kulmethe, Pendu Chaitu Talandi and the other two were unknown persons. She alleged that they have taken her father-in-law Dassa Irpa Talandi, to some distance and after some time, she heard the sound of bullet fire in the open air. On the next morning, they saw the said Dassa Irpa Talandi in an injured condition. He sustained the injury on the back of his left ear and on his neck. It is alleged that the applicants have committed the murder on her father-in-law, due to the previous dispute.

3. Learned counsel Mr. A.C.Jaltare submitted that as far as the allegations and the medical evidence is concerned, which is not corroborating with each other. None of the witnesses are stated that the deceased have sustained superficial burn injuries either by the act of the present applicant or while performing the last rites or they have attempted to cause him one injury. He further submitted that the medical officer has not witnessed any injury on the neck of the deceased. As far as the injury of fracture of occipital bone is concerned, which is also not narrated by any of the witness.

4. He further invited my attention towards the fact that as per the oral statement and the inquest panchanama, the injury was witnessed behind the left ear, whereas the medical report shows that injury was sustained behind the right ear. He further submitted that as far as the statements are concerned, none of the witnesses have stated that applicant No.1 Pedu was holding in Axe in his hand when he came at the spot. So, there are inconsistencies in the oral statements of the witnesses and the medical examination of the deceased, the applicants are implicated maliciously and falsely, due to the previous enmity.

5. Now, the investigation is completed and the applicants are behind bar since 2019, there is no progress in the trial and therefore, application be allowed by granting bail to the present applicants.

6. Per contra, learned APP strongly opposed the present application on the ground that there is a prima-facie material against the present applicants. As the oral statements of the witness shows that these are the applicants took the deceased from the agricultural field and on the second day, dead body of the deceased was found. Thus there is circumstantial evidence connecting the present applicants with the

alleged offence. Though the investigation is completed and charge-sheet is filed, considering the apprehension that if the applicants are released on bail, they will tamper with the prosecution evidence. Hence, the application deserves to be rejected.

7. Having heard learned counsel for the applicant and after going through the investigation papers and perusal of the recitals of the FIR is concerned, the informant has stated that she has witnessed the injuries behind the left ear and on the neck of the deceased, whereas the P.M. Report shows that the injuries behind right ear, and no injury was witnessed by the medical officer on the neck.

8. After going through the various statements, it reveals that the weapon i.e. Axe is assigned to the applicant No.1 by the statements recorded on 11/06/2019 of wife of the deceased and other family members. As far as the applicant Nos.2 and 3 are concerned, only their presence is stated by the witnesses. Applicant No.3 was holding a Fire Arm like Gun and he has shot fire in the air. Admittedly, none has sustained the injuries due to the act of applicant No.3.

9. Furthermore, considering the fact that the investigation is completed charge-sheet is filed and

there is no substantial progress in the trial. Considering the role of the applicant Nos. 2 and 3, their bail application deserves to be considered.

10. However, considering the role attributed to applicant No.1, various statements which were recorded on 11/06/2019. At this stage, I am not inclined to consider his prayer for bail.

11. Learned counsel for the applicant submitted that he is not pressing the application as far as applicant No.1 is concerned, with liberty to file fresh after six months, if there is no progress in the trial.

12. In that view of the matter, the application is **partly allowed**.

- a) Applicant Nos. 2 and 3 (Vilas s/o Karpa Kulmethe and Raju s/o Chaitu Talandi) are released on bail in connection with Crime No.03/2019 registered with Police Station Perimili, District Gadchiroli for the offences punishable under Sections 302, 323, 506 read with Section 34 of the Indian Penal Code, 1860 and under Sections 3, 25 of the Indian Arms Act, on

furnishing P.R. Bond of Rs. 25,000/- each with one solvent surety in the like amount.

- b) Applicant Nos. 2 and 3 shall not threat, promise or induce any witness who are acquainted with the facts of the present case.
- c) Applicant Nos. 2 and 3 shall furnish their cell phone numbers along with address with address proof before the trial Court.
- d) As far as applicant No.1 is concerned, his application is disposed of as withdrawn with liberty to file fresh, if there is no substantial progress in the trial after six months.

Criminal application is **disposed of**.

[URMILA JOSHI-PHALKE, J]