



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

CRIMINAL APPLICATION (BA) NO.697 OF 2023

Shankar Maroti Neware and another 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 P.V. Navlani, Advocate for applicants.
 Shri V.A. Thakre, APP for non-applicant/State.
 Shri A.A. Zade, Advocate for informant (Assist to prosecution) .

CORAM : M.W. CHANDWANI, J.

DATE : OCTOBER 09, 2023.

The applicants are seeking bail in connection with Crime No.631/2022 registered with Police Station, Chandur Railway, District Amravati for the offences punishable under Section 302 read with Section 34 of the Indian Penal Code.

2. Heard learned counsel for the applicants as well as learned APP assisted by learned counsel for the informant.

3. A perusal of charge-sheet goes to show that the deceased was having illicit relations with the wife of applicant no.1 and she was residing with the deceased for the last 1 ½ years, therefore, there used to quarrel. On 20.12.2022 at about 2.00 pm, applicant nos.1 and 2 alongwith co-accused Gaurav in furtherance of their common intention assaulted the deceased by means of stone on the head and by stick on his back and committed his murder.

4. It is contended on behalf of learned counsel for the applicants that the applicants are not involved in the crime.

According to him, the death of the deceased was caused due to head injury and the role assigned to the present applicants that they assaulted the deceased. According to him, the stone assault is attributed to co-accused Gaurav whereas no allegation of assault is attributed to the present applicants.

5. Per contra, learned APP assisted by the learned counsel for the informant submitted that the applicants had played an active role in the crime even though they had assaulted the deceased by means of stick. According to them, there is strong material against the applicants regarding their involvement in the crime. They submit that if the applicants are released on bail there is a likelihood they will commit similar offence, hence, objected bail application.

6. No doubt there are statements of witnesses show that the applicants were present at the time of the incident and the co-accused Gaurav assaulted by means of stone on his head. However, those witnesses did not support their statements recorded under Section 164 of the Code of Criminal Procedure (Cr.P.C.) except Pramod Ramteke. In statement under section 161 of the Cr.P.C., which was recorded after 20 days of the incident, Pramod Ramteke has stated that at the time of the incident when he tried to intervene the applicant Piyush asked him not to intervene and also threatened him. The co-accused Gaurav, and both applicants all three assaulted the deceased on his head by stones. Whereas, in statement under section 164 of Cr.P.C.

he stated that he saw the co-accused and the applicants were on the person of the deceased. A bare perusal of the postmortem report shows that on head the deceased had only one injury. Even as per the prosecution case, it is the co-accused Gaurav assaulted the deceased on his head. Thus, it appears that a vital blow is given by the co-accused Gaurav. It appears that the charge-sheet is already been filed and the applicants have been behind bars since last about ten months. There is no likelihood that the applicants may flee from justice. So far as anxiety of the learned APP regarding repetition of the same offence and threatening to the witnesses are concerned, I think the applicants can be put on terms. Hence, I proceed to pass the following order:

ORDER

- i. The application is allowed.
- ii. The applicants – (1) Shankar Maroti Neware and (2) Piyush S/o Shankar Neware, shall be released on bail in connection with Crime No.631/2022 registered with Police Station, Chandur Railway, District Amravati for the offences punishable under Section 302 read with Section 34 of the Indian Penal Code, on furnishing PR bond in the sum of Rs.30,000/- each with one solvent surety in the like amount.
- iii. The applicants shall not enter in the territorial jurisdiction of Chandur Railway and village Satefal, District Amravati till conclusion of trial.

iv. The applicants shall not induce, threaten, or promise any witness, who are connected with the alleged crime.

v. The applicants shall not indulged themselves in the similar type of offence.

vi. The observations made in this order are prima facie. The trial Court shall not get influenced by the observations made in this order.

The application is disposed of.

JUDGE

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