



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

CRIMINAL APPLICATION (BA) NO. 819/2023

(Suraj Jagdish Pali 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.S.Deshpande, counsel for the applicant.
Mrs. M.A.Barbde, APP for the non-applicant/State.
Mr. M.N. Ali, counsel for the informant.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 19/12/2023.

1. By this application, the applicant is seeking bail under Section 439 of the Code of Criminal Procedure, 1973, in connection with Crime No.06/2023 registered with Police Station Yavatmal City, District Yavatmal for the offence punishable under Section 302, 307 read with Section 34 of the Indian Penal Code, 1860. The applicant is arrested on 04/01/2023 and since then he has behind bar.

2. The accusations against the present applicant is on the basis of the report lodged by Rajani Narendra Pali wife of one of the deceased Narendra Pali and mother of the another deceased Rahul Pali. As per her allegation, she is the owner of the house, which is situated near Reliance Petrol Pump Sharda Chowk, Yavatmal and the present applicant i.e. Suresh Jagdish Pali is her neighbor. There was a previous dispute. On account of the said dispute they have settled the dispute, and it was

decided that the house is to be partitioned as 15 x 16 sq.ft. to each. Prior to 15 days, the entire house was demolished and construction of the new house was started. On 03/01/2023 at about 3.30 p.m. her son Rahul had been to the construction site near Reliance Petrol Pump, Sharda Chowk, Yavatmal, her son was followed by her husband also. Her husband was called, as the plot was to be measured by the measurer. At about 5.00 p.m., her cousin nephew came to the house and disclosed to her that, the quarrel is going on between her husband Narendra Gajanath Pali and Rahul Narendra Pali and the present applicant. She alleged that, on account of partition and measurement, there was quarrel between the applicant, her husband and son. The present applicant has gave a blow of iron rod on the head of her son as well as her husband, and they succumb to the death. On the basis of the said report, the Police have registered the crime against the present applicant.

3. The learned counsel for the applicant submitted that admittedly there was a dispute between two families on account of measurement of the said plot. He also invited my attention towards the statement of the eye witness namely Harnaresh Shankarrao Neware, who was present at the time of the incident. He disclosed that at about 3.30 to 3.45 p.m., he was called by Rahul and Narendra Pali for measurement of the said plot. At the relevant time, the present applicant was also called. There was quarrel between them and the deceased Rahul Pali

has brought the iron rod and gave blow on the hand of the present applicant. It further reveals from his statement that thereafter present applicant has snatched the said rod, gave a blow on the head of Suraj as well as on the head of Narendra Pali. In the said incident both have sustained the injuries and succumbed to the death.

4. The learned counsel for the applicant submitted that from the sequence of the occurrence, it reveals that it was the deceased Rahul who has given the blow by the Iron rod on the present applicant and therefore, present applicant has snatched the said rod and gave a blow on the head of Suraj and thereafter, as the another deceased that Narendra Pali came there and he had also sustained the injury in the said incident and succumbed to the death. There was no intention to cause death of both the deceased. In a sudden fight and sudden quarrel, the death of the deceased is caused. Now, investigation is completed and charge-sheet is filed and further custodial interrogation of the present applicant is not required. No purpose will be served by keeping the present applicant behind bar. He is the only earning member of the family and there is nobody to look after the family. Considering the same, applicant be released on bail.

5. The learned APP for the State and learned counsel for the Assist to Prosecution have strongly opposed the present application, on the ground that the

death of the two persons is caused by the present applicant. She further submitted that admittedly there was a previous dispute between the two family, however, the applicant had chosen the vital part of the body to cause the injury and they succumbed to the injuries. Considering the gravity of the offence, application deserves to be rejected.

6. Having heard learned counsel for the applicant, learned APP for the State and learned counsel for the Assist to Prosecution. Perused the investigation papers, there is no dispute as to the fact that the investigation is completed and charge-sheet is filed. Considering the recitals of the FIR and various statements recorded during the investigation, it reveals that there was a previous dispute between the two families, on account of the plot which is situated near Reliance Petrol Pump, Sharda Chowk, Yavatmal. It further reveals that, the dispute was settled by both the family and it was decided that the plot is to be partitioned by 15 x 16 sq.ft and each family will entitle for the said portion. Thereafter, the house was demolished and the new construction of the house was started.

7. From the statement of the eye witness, Narnaresh @ Bablu Shakarrao Neware who was called by the deceased for measurement of the plot. The presence of the present applicant is not disputed. It reveals from the statement that during the quarrel, it was the deceased

who brought the said iron rod and gave a blow on the hands of the present applicant. It further reveals that present applicant pushed him and therefore, deceased Rahul fallen on the ground and the present applicant has snatched the rod from his hand and gave blow on the head of deceased Suraj. When the another deceased Narendra Pali intervened, he was also assaulted by the present applicant. They both have sustained the brain injury and succumbed to the death. Even taking into consideration, the submission made by the learned counsel for the applicant that it was the deceased Rahul who has brought the iron rod and gave a blow on the hands of the present applicant, and the alleged incident has occurred.

8. Moreover, the allegation is taken into consideration that the applicant has snatched the iron rod to protect himself from the injuries. In view of right of private defence, then also, it appears that he has extended the right of private defence and cause death of two persons.

9. Furthermore, considering the gravity of the offence that present applicant has caused the death of the two persons. Merely because, the investigation is completed and charge-sheet is filed, discretion cannot be used in favour of the applicant.

10. In that view of the matter, this is not a fit case to grant bail. Accordingly, I proceed to pass following order.

The Criminal application is **rejected**.

[URMILA JOSHI-PHALKE, J]