



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

Criminal Application [BA] No.860 of 2023

Suresh s/o Maroti Chandankhede

vs.

State of Maharashtra, through P.S.O., Police Station Samudrapur, District Wardha

*Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.*

Court's or Judge's Orders

Mr. R.M. Daga, Advocate for the Applicant.

Mr. A.M. Kadukar, A.P.P. for the Non-Applicant/State.

CORAM : **M.W. CHANDWANI, J.**
DATE : **10th OCTOBER, 2023.**

By the present application, the applicant seeks bail in connection with Crime No.351/2023, registered with Police Station Samudrapur, District Wardha, for the offences punishable under Sections 302, 307, 506 read with Section 34 of the Indian Penal Code.

02] Heard the learned Counsel for the applicant as well as the learned A.P.P. for the non-applicant/State.

03] Having gone through the charge-sheet, it transpires that over the boundary of the field between the deceased and the applicant, on 17/05/2023 at about 12:00 noon, an altercation took place between the applicant and the deceased in the field. Co-accused Amit was having axe in his hand. At the instigation of the present applicant, co-accused Amit acrimoniously dealt blows of axe on the head and body of the deceased and thereafter, they fled away from the spot. When the complainant i.e. the brother of deceased, reached there, the deceased made dying declaration before the complainant that the son of the present applicant assaulted him by axe. Initially, offence under Section 307 of the Indian Penal Code

came to be registered. Meanwhile, the deceased was taken to the hospital by his brother, where he was declared dead. After, the deceased succumbed to the injuries, offence under Section 302 of I.P.C. came to be added.

04] It is the contention of the learned Counsel for the applicant that the applicant has not played any role in commission of crime and fatal assault has been done by his son Amit. The applicant is aged about 68 years old. Charge-sheet has already been filed.

05] *Per contra*, the learned A.P.P. for the State vehemently submitted that the applicant insisted the co-accused and, therefore, he dealt axe blows on the head and body of the deceased. The applicant and the victim are of same village and, therefore, there is likelihood of repeating the same offence. He, therefore, prays for rejection of the bail application.

06] Perusal of the charge-sheet transpires that the fatal assault is not attributed to the present applicant. The role assigned to the applicant is that he instigated the co-accused. Thus, no act of assault is attributed to the present applicant. The applicant is aged about 60 years old. The charge-sheet has already been filed. There is no likelihood that the applicant will flee away from justice.

07] Considering the aforesaid material, a case is made out for exercising discretion in favour of the applicant. So far as the apprehension of the prosecution that the applicant will repeat the same offence, if he released on bail, can be protected by imposing the conditions. Hence, the following order :

ORDER

- I. Applicant-Suresh Maroti Chandankhede shall be released on bail in connection with Crime No.351/2023, registered with Police Station Samudrapur, District Wardha, on his furnishing a P.R. Bond in the sum of Rs.30,000/- (Rupees Thirty Thousand Only) with one solvent surety in the like amount, before the trial Court.
- II. The applicant shall not enter in the village Dongargaon, Tahsil Samudrapur, District Wardha, till conclusion of the trial.
- III. The applicant shall attend the trial Court on each and every date.
- IV. The applicant shall not tamper with the prosecution evidence in any manner
- V. The application is allowed and disposed of accordingly.

JUDGE**sandesh*