



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

CRIMINAL APPLICATION (BA) NO. 881/2023

Abhisheksingh s/o Satyapalsingh Pawar 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.M. Jaltare, counsel for the applicant.

Mr. A.G. Mate, APP for the non-applicant/State.

CORAM : URMILA JOSHI-PHALKE, J.

DATED : 04/12/2023.

1. By this application, the applicant is seeking bail under Section 439 of the Code of Criminal Procedure in connection with Crime No. 29/2023 registered with Police Station Arjuni Morgaon, District Gondia for the offence punishable under Sections 143, 147, 148, 302, 326, 504 and 506 read with Section 149 of the Indian Penal Code and under Sections 37(1)(3), 135 of the Maharashtra Police Act. The applicant was arrested on 14/02/2023 since then he is in jail.

2. Mr. A.M. Jaltare, counsel for the applicant submitted that the applicant is arrested as crime is registered against him on an accusation by Ramdas Keshav Mhaske that there was a previous dispute between the applicant, other co-accused and the informant, on account of agricultural land bearing No. 1055 in Mahagaon vicinity. On 14/02/2023 at about

8.30 a.m. when he along with his son Vilas were working in the agricultural field, the present applicant along with other co-accused holding swords and iron rod in their hand, they entered the field. There was hot exchange of words between the present applicant and the complainant and the present applicant asked them whether the land belongs to them and why they were cultivating the land. All the accused started assaulting them as the deceased and informant were scared and started running, the co-accused Jitendra Songre and Sumitsingh Parihar chased them some distance, and Sumitsingh and Jitendra assaulted the deceased by means of sword. It is alleged that they both have also pulled the informant from the tractor and assaulted them. On the basis of the said report, the crime is registered against the present applicant and other co-accused.

3. Learned counsel Mr. A.M. Jaltare further submitted that, as far as the role of the present applicant is concerned, there is no allegation that he was involved in the subsequent incident. Regarding the first incident, only a general allegation is made that all the accused have assaulted the deceased and the informant by means of weapons in their hands.

4. He further submitted that another incriminating circumstance against the present applicant is that all the articles are seized at the behest of the present applicant. Now, investigation is completed and charge sheet is filed, the C.A. reports are also received, further custody of the present applicant is not required. No purpose will be served by keeping the present applicant behind bar and prays for releasing the applicant on bail.

5. Per contra, learned APP vehemently submitted that considering the gravity of the offence that the deceased was chased by the co-accused and was assaulted. The deceased has sustained as many as 21 injuries. The present applicant in furtherance of a common object with other co-accused assaulted the deceased and caused his death. If the applicant is released on bail, he will tamper with the prosecution witnesses and prays for rejection of the application.

6. Having heard learned counsel for the applicant and learned APP for the State. Perused the investigation papers. As per the allegation, there is a previous dispute between the informant and the accused persons on account of agricultural land and litigation is pending in the Court. Regarding the incident, it is alleged that the present applicant along with co-accused entered into field holding a sword and iron rod in their hands. As far

as the allegation against the present applicant is concerned, he uttered the word that whether the agricultural land is owned by them and why they are cultivating the land. He instigated the others. The general allegations is made that all the accused have assaulted the deceased and the informant in the agricultural field, therefore, they got scared and started running from the said place. At the relevant time, two co-accused namely Jitendra Songare and Sumitsingh Parihar chased them and these two co-accused Jitendra Songare and Sumitsingh Parihar gave a blow swords on the persons of the deceased and deceased succumbed to death.

7. It is further alleged that the co-accused Jitendra Songare and Sumitsingh Parihar also assaulted the informant by pulling him on the ground. The statement of the informant was recorded under Section 164 of the Cr.P.C., wherein also he raised similar allegations against the other accused and the present applicant.

8. On perusal of the investigation papers, it reveals that the incriminating weapons were recovered at the instance of the present applicant. Now, the investigation is completed and charge-sheet is filed, as far as the role of the present applicant is concerned, is similar to the other co-accused, who are released on bail. Admittedly,

the deceased has sustained as many as 21 injuries but these injuries are assigned to the co-accused Jitendra Songare and Sumitsingh Parihar. There is no allegation that the present applicant was present at the time of the subsequent incident when the deceased was chased by the co-accused.

9. Considering the same and considering the fact that the investigation is completed, further custody of the present applicant is not required and no purpose will be served by keeping them behind bars. The application deserves to be allowed by imposing certain conditions. Accordingly, I proceed to pass the following order.

- a] The criminal application is **allowed**.
- b] The applicant- Abhisheksingh s/o Satyapalsingh Pawar is released on bail in connection with Crime No. 29/2023 registered with Police Station Arjuni Morgaon, District Gondia for the offence punishable under Sections 143, 147, 148, 302, 326, 504 and 506 read with Section 149 of the Indian Penal Code and under Sections 37(1)(3), 135 of the Maharashtra Police Act, on furnishing P.R. Bond of Rs. 25,000/- with one solvent surety in the like amount.

- c] The applicant shall not enter into the village of Siroli/Mahagaon till the conclusion of the trial.
- d] The applicant shall not directly or indirectly make any inducement, threat or promise to any witness acquainted with the facts of the case so as to dissuade him/her from disclosing such facts to the Court or any Police Officer.
- e] The applicant shall furnish his residential address wherein he has staying after releasing him on bail and shall furnish his cell phone number to the investigating officer.

The criminal application **disposed of**.

[URMILA JOSHI-PHALKE, J]