



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

CRIMINAL APPLICATION (BA) NO. 915 OF 2023

Anish @ Dimpi s/o Sanjay Hiranwar
.Vs.

State of Maharashtra, through P.S.O. P.S. Sitabuldi, District Nagpur

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions Court's or Judge's orders.
and Registrar's Orders.

Mr C.R. Thakur, Advocate for the applicant.
Mr. Harshal Phutane, APP for State.

CORAM : SHIVKUMAR DIGE, J.
DATE : 6th NOVEMBER, 2023.

1. By this application, the applicant is seeking bail in Crime bearing No.139 of 2023 registered with Police Station Sitabuldi, District Nagpur for the offences punishable under Sections 302, 307 and 323 read with Section 34 of the Indian Penal Code, 1860 (for short "IPC").

2. It is prosecution's case that when first informant and his friends were standing on road, at that time there was scuffle between applicant, co-accused and friends of first informant. In the said scuffle, applicant and co-accused assaulted the friend of first informant namely Ishwar with fists and blows and accused No.2 assaulted Ishwar with knife on his abdomen. Due to said assault, Ishwar died.

3. It is contention of learned counsel for the applicant that allegations against the applicant that he had assaulted the deceased with fists and blows and main allegations are against the accused No.2. The knife used in the crime is recovered at the instance of accused No.2. There is no recovery at the instance of the applicant. Applicant is behind bar more than six months. Investigation is completed and charge-sheet has been filed. Applicant has not been identified by first informant and other witnesses. Hence requested to allow the application.

4. It is contention of learned APP that applicant was the part of group who assaulted the deceased. Applicant alongwith other accused without any reason assaulted the first informant, deceased and his friend. There is *prima-facie* case against the applicant. Hence requested to reject the application.

5. I have heard both learned counsel. Perused the first information report and charge-sheet.

6. Allegations against the applicant are that he alongwith co-accused assaulted the deceased with fists and blows. The main allegations are against the accused No.2 that he had assaulted deceased with knife on his abdomen.

Initially the offence was registered under Section 307 of the I.P.C. During treatment deceased died on 05.04.2023. Applicant has not been identified in test identification parade by the first informant and prosecution witnesses. Considering the role attributed to the applicant and applicant has not been identified in test identification parade, I am inclined to allow the application. Hence, I pass the following order:-

- i) Criminal application is allowed.
- ii) Applicant- **Anish @ Dimpi s/o Sanjay Hiranwar** be released on bail in Crime No.139 of 2023, registered with Police Station Sitabuldi District: Nagpur on his furnishing P.R. Bond in the sum of Rs. 25,000/- (Rupees Twenty Five Thousand only) with one surety in the like amount.
- iii] The applicant shall not in any way tamper with the prosecution evidence.
- iv] The applicant shall not pressurize or threaten the prosecution witnesses.
- v] The applicant shall co-operate the

learned trial Judge in conduct of the trial expeditiously.

7. The Criminal Application stands **disposed of** accordingly.

(SHIVKUMAR DIGE, J.)

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