

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

Criminal Application (BA) No. 1418 of 2022

Ramrao S/o Bapurao Kawadkar

Versus

State of Maharashtra, through Police Station Officer, Police Station
Narkhed, Tah. Narkhed, Dist. Nagpur

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Mrs. Meena Hiwase, Advocate for the applicant
Ms. H.N.Jaipurkar, APP for the non-applicant/State.

**CORAM : ANIL S. KILOR, J.
DATED : 21st MARCH, 2023.**

The applicant is seeking bail under Section 439 of the Code of Criminal Procedure in Crime No. 196 of 2021 registered with Police Station Narkhed Tal. Narkhed, Dist. Nagpur for the offence punishable under Section 302 and read with Section 34 of Indian Penal Code.

2. Learned counsel for the applicant submits that the earlier application was withdrawn with liberty to file a fresh application after a period of six months if the trial is not commenced. It is submitted that the earlier application was withdrawn on 9th June, 2022 and

after the lapse period of nine months the charge is even not framed. Learned counsel for the applicant has pointed out that there was continuous harassment at the hands of deceased to the daughter of the applicant. Various complaints were also made. The deceased was creating problems in the marital life of the daughter of the applicant. It is submitted as the deceased was residing adjacent to the house of the applicant, he used to quarrel with the applicant and his family and would harass the applicant and his family. It is submitted that on the date of incident also he abuse the applicant and in a fit of anger the applicant assaulted the deceased and he succumb to the injuries. There was no intention of the applicant to kill the deceased.

3. Learned counsel for the applicant has drawn attention to the injuries mentioned in column no.17 of the post mortem report and there by pointed out that there was only one stab injury which clearly shows that there was no intention of the applicant to kill the deceased. She submits that the knife which was used in the commission of offence, generally used in kitchen. Therefore, she submits that as the applicant is in jail for about 18 months and because of filing of the chargesheet, his custody is not necessary. He may be released on bail.

4. It is further pointed out that the wife of the applicant has undergone major surgical operation and there was no one to look after her. It is pointed out that, both the sons of the applicant are minor. Accordingly, the learned counsel for the applicant prays for grant of bail.

5. On the other hand, Ms. Jaipurkar, learned APP strongly opposed the application and she points out that there were fourteen injuries found on the body of the deceased and there are seven witnesses to the incident. She accordingly submits that sufficient incriminating material is available on record to show the *prima facie* involvement of the applicant, the applicant may not be granted bail.

6. I have perused the chargesheet and other material filed on record.

7. From the chargesheet, it is evident that the deceased and the applicants were neighbors. It also appears from the complaint filed by the daughter of the applicant that after her marriage the deceased used to harass her and he was trying to disturb her marital life. Police complaints were also made by the daughter of the applicant. Further there was continuous harassment to the applicant at the hands of the deceased. Even on the date of incident, it appears that deceased abused the

applicant and because of which in a sudden provocation, the applicant assaulted the deceased. The injuries mentioned in column 17 of the post mortem report are 14 in numbers. There is only one stab injury and others are incised wounds or abrasions. The single stab injury *prima facie* shows that there was no intention of the applicant to kill the deceased.

8. The post mortem report disclose the cause of death of hemorrhage due to injury to major vessels in neck by sharp pointed object.

9. Learned Additional Public Prosecutor fairly states that till date the charge is not framed. Thus, considering the pace of the trial with which it is going, coupled with the fact that the applicant is in jail for one and half years and the chargesheet is filed after completion of investigation, I am of the opinion that in the above referred backdrop and the findings recorded by this Court, the applicant should be released on bail with with stringent conditions. Accordingly, I pass the following order.

- i. Criminal application is allowed;
- ii. It is directed that the applicant shall be released on bail in Crime No. 196 of 2021 registered with Police Station Narkhed Tal. Narkhed, Dist. Nagpur for the offence punishable under Section 302 and read with

Section 34 of Indian Penal Code, on furnishing P.R.Bond of Rs.25,000/- with a solvent surety in the like amount;

iii. The applicant shall not enter the territorial jurisdiction of Ambada Deshmukh, Taluka Narkhed, Dist. Nagpur till culmination of trial;

iv. The applicant shall provide his address and the name of nearest concerned police station which he shall attend on 1st and 16th of each month between 10 am to 11 am, till culmination of trial;

v. The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case, as also not to tamper with the evidence.

[ANIL S. KILOR, J.]

SACHINDANAND
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