



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

CRIMINAL APPLICATION (BA) NO. 1023 OF 2023

Pintu S/o Suresh Bendekar

..VS..

State of Maharashtra through PSO, Police Station Pachpaoli, Nagpur

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. S.D. Chande, Advocate for applicant.

Mr. S.S. Hulke, APP for respondent/State.

CORAM : URMILA JOSHI-PHALKE, J.

DATED : DECEMBER 14, 2023

Heard.

2. By the present application, the applicant is seeking bail in connection with Crime No.971/2019, registered with Police Station Pachpaoli, Nagpur (City) for an offence punishable under Sections 143, 147, 148, 302, 326, 324, 323, 120(B) read with Section 149 of the Indian Penal Code and Section 135 of the Maharashtra Police Act. The applicant is arrested on 06.12.2019 and since then he is in a jail.

3. Learned Counsel for the applicant Mr. Chande submitted that the accusation against the present applicant is on the basis of report lodged by Pawan Ganesh Dharmik on an allegation that there was a previous dispute between the deceased Shubham Sadavarte, present applicant and other co-accused. On 05.12.2019, when they were watching the cricket match at Bangladesh Hanuman Mandir open ground, at about 09.45 pm., the present applicant and other co-accused

came there by covering their faces and assaulted them. In the said assault, the death of Shubham Sadavarte was caused. As per the allegations, the present applicant was holding iron rod in his hand and he has assaulted informant as well as one Piyush. Learned Counsel further submitted that co-accused namely Aakash Balaji Kumbhare to whom role is assigned that he has assaulted the deceased is already released on bail. Thus, on the ground of parity, also the present applicant is released on bail. He submitted that as far as the statement of the informant and the other witnesses are concerned, no role is attributed to the present applicant. As far as the assault on the deceased is concerned, as per the allegation, the present applicant has assaulted the Piyush Aagde and Pawan Dharmik, who have sustained the simple injuries. Since 2019, the present applicant is behind bar, his further incarceration is not required, hence prays that he be released on bail.

4. Learned APP strongly opposed the said application on the ground that in furtherance of the common object, the present applicant and other co-accused caused the death of the deceased. The offence alleged is of a serious nature and considering the gravity of the offence, the application deserves to be rejected.

5. Having heard the learned Counsel for the applicant and learned APP for State and perused the FIR. As per the recitals of the FIR, present applicant and other five co-accused assaulted the deceased as well as prosecution witnesses. From the statement of the informant and the

other eye witnesses, the role attributed to the present applicant that he has assaulted by iron rod to the informant Pawan and another injured Piyush. Said Piyush has sustained one grievous injury and one simple injury and already discharged from the hospital. Considering the fact that the present applicant is behind bar since 2019, there is no substantial progress in the trial and role attributed to the present applicant is to the extent of assault on the injured persons and not on the deceased hence, the application deserves to be allowed by imposing certain conditions. Accordingly, I pass the following order :

- i) The Criminal Application is allowed.
- ii) The applicant – Pintu S/o Suresh Bendekar is released on bail in Crime No.971/2019, registered with Police Station Pachpaoli Nagpur (City) for the offence punishable under Sections 143, 147, 148, 302, 326, 324, 323, 120(B) read with Section 149 of the Indian Penal Code and Section 135 of the Maharashtra Police Act, on executing PR. bond in the sum of Rs.25,000/- with one solvent surety in the like amount.
- iii) The applicant shall not induce, threat or pressurize any witnesses who are acquainted with the facts of the present crime.
- iv) The applicant shall not enter into the vicinity of area where the witnesses are residing.

- v) The applicant shall not leave the jurisdiction of the Nagpur City without prior permission of the Nagpur District Court.

The Criminal Application is disposed of.

(URMILA JOSHI-PHALKE, J.)

Kirtak