



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

CRIMINAL APPLICATION (BA) NO.1037 OF 2023

Sonu @ Sanjiv Doma Rathod

Vs.

State of Maharashtra, Through its Police Station Officer, Police Station, Digras,
District Yavatmal

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

Court's or Judge's orders

Mr. A. A. Dhawas, Advocate for applicant.
Ms. Deepa Charlewar, APP for respondent/State.

CORAM : URMILA JOSHI-PHALKE, J.

DATED : 29/11/2023

1. By this application, the applicant is seeking bail under Section 439 of the Code of Criminal Procedure in connection with Crime No.348/2023 registered with Police Station, Digras, District Yavatmal for the offences punishable under Sections 143, 147, 148, 341, 506 and 302 read with Section 149 of the Indian Penal Code. The applicant is arrested on 12.06.2023.

2. The Crime is registered on the basis of report lodged by Santosh Pandurang Chauhan alleging that on 20.06.2022 dispute had been taken place with co-accused Kailas Rathod on account of boundary of the agriculture filed. On the date of the incident, on 11.06.2023 at about 5.00 p.m. his elder brother Subhash Chauhan had been to agriculture field and he also

followed his brother. While returning from the field, he witnessed that accused Kailas Rathod holding axe in his hand. Thereafter, at about 7.30 p.m. Subhash received a phone call from Nagorao Tiwaskar who called him in the agriculture field of Nagorao Tiwaskar. Informant immediately rushed to the field and saw that his father was lying in an injured condition having blood stains injuries on his head. He immediately removed his father in the hospital, but he succumbed to the death. As per the allegation, the co-accused Kailas Rathod gave a blow of axe on the head of the deceased and other co-accused assaulted the deceased by means of stick. After registration of the crime, the wheels of the investigation started rotating. During investigation, Investigating Officer has recorded the various statements, seized the incriminating articles and collected the Postmortem Report.

3. Learned Counsel Mr. Dhawas for the applicant submitted that as far as the present applicant is concerned, general allegation is made against him that he along with the other co-accused assaulted the deceased by means of stick. The cause of death is due to head injury. There are no corresponding injuries as far as the allegation as to the assault by stick is concerned. Now, investigation is completed and charge-sheet is filed. The applicant is behind bar since 12.06.2023. No

purpose will be served by keeping the present applicant behind bar and prays for releasing him on bail.

4. The said application is strongly opposed by the State on the ground that considering the gravity of the offence that present applicant in furtherance of his common object assaulted the deceased and caused the death of the deceased. Though investigation is completed, there is every likelihood that if applicant is released on bail, he will tamper with the prosecution evidence and prays for rejection of the application.

5. Having heard learned Counsel for the applicant and learned APP for the State. Perused the recitals of the FIR. From the recitals of the FIR, it reveals that there is a previous dispute between the present applicant and other co-accused and the deceased on account of the agriculture field boundary. Previously also there was scuffle between them. As far as the alleged incident is concerned, it is alleged that on 11.06.2023 informant has seen the co-accused Kailas holding axe in his hand. He has not alleged that he has witnessed the present applicant and other co-accused also on that day along with the weapons. The statement of the witnesses and the recitals of the FIR shows that the general allegation is made against rest of the accused that they have assaulted the deceased by means of stick, fist and kick blows. Due to the injuries, there is

instantaneous death of the deceased. The Postmortem Report shows that deceased has sustained 14 injuries. However, cause of death mentioned in the Postmortem Report is head injury. Admittedly, the head injury is not attributed to the present applicant. There are no corresponding injuries as far as the allegation regarding the assault by stick, fist and kick blows is concerned, but there are corresponding injuries as to the head injury. Considering the entire material which is collected during the investigation, it reveals that there is general allegation against the present applicant, no specific role is attributed to him and cause of death is due to head injury. Now, investigation is completed and charge-sheet is filed. No purpose will be served by keeping the present applicant behind bar by taking into consideration his role. However, considering the apprehension raised by the learned APP, some conditions to be imposed on the present applicant. In view of that, I proceed to pass following order.

ORDER

(i) The application is allowed.

(ii) The applicant **Sonu @ Sanjiv Doma Rathod** be released on bail in connection with Crime No.348/2023 registered with Police Station, Digras, District Yavatmal for the offences punishable under Sections 143, 147, 148, 341, 506 and 302 read with Section 149 of the Indian Penal Code, on executing PR bond in the sum of

Rs.50,000/- with one solvent surety in the like amount.

(iii) The applicant shall not enter in the village Wadgaon, Tahsil Digras, District Yavatmal till conclusion of the trial.

(iv) The applicant shall not induce, threat or promise any witnesses who are connected with the alleged crime.

(v) The applicant shall furnish his along with two relatives' cell phone numbers and addresses with their address proof.

(vi) Bail in trial Court.

(URMILA JOSHI-PHALKE, J.)