



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

1006 BAIL APPLICATION NO. 272 OF 2024

Vijay Vishwanath Chaudhari
VERSUS
The State of Maharashtra

...
Advocate for Applicant : Mr. N. L. Chaudhari
APP for Respondents: Mr. Satish A. Gaikwad
Advocate to assist the A.P.P. : Mr. Abhinay D.Khot
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CORAM : SANJAY A. DESHMUKH, J.
DATED : 19th MARCH, 2024.

PER COURT :-

1. This is an application for granting bail under section 439 of the Code of Criminal Procedure, 1973 (for short "Cr.P.C.") in connection with crime No. 887 of 2023 registered with Nandurbar city police station, District Nandurbar for the offences punishable under Sections 302, 114, 323, 504, 201 r.w. 34 of the I.P.C. His application with similar prayer bearing criminal bail application No. 11 of 2024 came to be rejected by the learned Sessions Judge, Nandurbar, vide order dated 1.2.2024.

2. The informant, who is cousin of deceased Yogeshwar averred in the report that on 13.11.2023, he received a phone call at about 3.30 a.m. that his co-brother Yogeshwar has been assaulted by knife. He went there. Yogeshwar was admitted in Nims Hospital, Nandurbar. Thereafter, he was shifted to Civil Hospital, Nandurbar.

There, the doctor declared that he is no more. From the statements of the witnesses, it was revealed that this applicant took Yogeshwar by car soon before the incident. The witnesses stated that Yogeshwar used to drink liquor from them but he is not supporting their side in the quarrel. That time, he was questioned by Akash @ Dada Choudhari, Vikki etc. and there was quarrel. The witnesses were there for pacifying that quarrel, but they were abused. Akash and Vikky also assaulted Yogeshwar. That time, Yogeshwar and Rushi Choudhari said that it is their wish and they will decide. That time, Akash had assaulted Yogeshwar by fist and kick blows on his stomach and back. Akash took out a knife and assaulted on left thigh of Yogeshwar. He sustained serious injury and fell down due to heavy bleeding. Therefore, the report was lodged.

3. Learned advocate for the applicant submitted that there is material contradictions in the statements of the witnesses recorded by the investigating officer as well as the statements recorded under Section 164 of the Cr.P.C. He further submitted that the main assailant is Akash. The applicant was present there and there was no such intention to kill Yogeshwar. He submitted that the charge sheet is filed. The trial will take along period. The applicant has roots in the society. Considering all these aspects, he prayed for allowing the application.

4. Learned A.P.P. for the respondent-State has strongly opposed

the application and submitted that there is direct evidence of eye witnesses. For the incident of assault, the applicant is the main instigator who took Yogeshwar with him and thereafter, he was brutally assaulted. He therefore, prayed to reject the application.

5. The learned advocate to assist the A.P.P. has strongly opposed the application and submitted that there is evidence of eye witnesses. The applicant may pressurize them, if he is released on bail. The post mortem report shows that due to the injury sustained over thigh, death is caused. Considering serious nature of the crime, he lastly prayed to reject the application.

6. Perused the charge sheet, particularly the report and the statements of witnesses. The post mortem report shows that due to injury sustained to thigh, Yogeshwar died. P.M. report shows incised wound over thigh and abrasion over left forearm. The incident took place in a spur of moment. There was no such intention or plan to commit murder of Yogeshwar, which can be ascertained from the assault by knife and the injury sustained by him to his left thigh. The meticulous consideration of the evidence is not expected at this stage. However, considering the role of this applicant that he instigated Akash and others and facts and circumstances of the case, the fact that the trial will take a long period, the applicant has roots in the society, he has no criminal antecedents, he will not flee away from trial the application deserves to be allowed on certain

stringent conditions. Hence, the following order.

O R D E R

- I. Application is allowed.
- II. The applicant in connection with crime No. 887 of 2023 registered with Nandurbar city police station, District Nandurbar for the offences punishable under Sections 302, 114, 323, 504, 201 r.w. 34 of the I.P.C. be released on bail on furnishing personal bond of Rs.50,000/- with one surety of the like amount on following conditions:-
 - a) The applicant shall not tamper with the prosecution evidence and shall not pressurize the witnesses, in any manner.
 - b) The applicant shall not enter into Nandurbar city till the conclusion of trial except on the dates fixed before the trial court. For the said purpose, the applicant to travel towards the court premises by nearest road.
 - c) If any breach of the above conditions is noticed, the trial court is at liberty to proceed to cancel the bail of this applicant without reference to this Court.
7. It is made clear that the observations made in this order are prima facie in nature and the trial court shall not get influenced by the same while deciding the trial.

(SANJAY A. DESHMUKH, J.)