



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

CRIMINAL APPLICATION (BA) NO.30 OF 2024

Anuj Umesh Dhawale

Vs.

State of Maharashtra, Through Police Station Officer, Police Station,
Rajapeth, Amravati

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

Court's or Judge's orders

Mr. R. M. Daga, Advocate for applicant.

Ms. H. S. Dhande, APP for respondent/State.

CORAM : URMILA JOSHI-PHALKE, J.

DATED : 07/03/2024

1. The applicant came to be arrested on 04.04.2023 in connection with Crime No.334/2023 registered with Police Station, Rajapeth, Amravati for the offences punishable under Sections 302, 307, 143, 147, 148, 504, 506 and 120-B read with Section 149 of the Indian Penal Code.

2. As per the allegation on the basis of report lodged by informant Ganesh Mahadeorao Kanchanpure at Rajapeth Police Station that in the intervening night of 02.04.2023 and 03.04.2023 at about 11.30 p.m., he was accompanied with deceased Rutik Balaskar. At the relevant time deceased received a phone call of accused No.1 Avinash @ Takya Dubey. They both had dispute on account of a girl and there was a hot exchange of words between them, when they have communicated with each other. On 03.04.2023 at about 00.15

hours the co-accused Abhijit met informant Ganesh and deceased Rutik at Chhatrapati Shivaji Square, Ravi Nagar, Amravati. At that time the accused No.1 came along with 7 to 8 persons and assaulted the deceased Rutik by giving a knife blow. As far as the present applicant is concerned, it was revealed during the investigation that he has assaulted the deceased by fist and kick blows. On the basis of the said report, police have registered the crime against the present applicant and other co-accused.

3. Learned Counsel Mr. Daga for the applicant submitted that the co-accused namely Ajay Wankhade to whom a similar role is attributed, is released on bail. The investigation is already completed and charge-sheet is also filed. Considering the role of the present applicant and the postmortem report which shows that the death of the deceased is due to the injury is caused by knife and not by fist and kick blows. Considering the investigation is completed and the charge-sheet is filed, further incarceration of the present applicant is not required. In view of that, he be released on bail.

4. Learned APP strongly opposed the said application on the ground that the evidence in the nature of the CCTV footage and the present applicant is identified during the identification parade shows *prima facie* case against the present applicant. The nature of the offence is serious one. If the applicant/accused is released on bail, he would tamper with the

prosecution evidence and therefore, the application deserves to be rejected.

5. Having heard the learned Counsel for the applicant and learned APP for the State, perused the investigation papers. Admittedly, the name of the present applicant is not mentioned in the FIR. During the investigation, the statements of the eye witnesses are also recorded and the deceased has also given oral dying declaration to witnesses namely Abhishek Anand Sangle and Karan Dinesh Harne wherein also the deceased has not disclosed that the present applicant has assaulted him by means of fist and kick blows. He only disclosed about the role of the accused Nos.1 and 2. During the investigation, the Investigating Officer has collected the CCTV footage wherein the first time the role of the present applicant was revealed. From the CCTV footage panchnama, it shows that the present applicant Ajay Wankhade and the child in conflict with home Aditya Kataktalware assaulted the deceased by means of fist and kick blows. The postmortem report is also on record which shows that the deceased has sustained six injuries which are attributed to the co-accused. The death of the deceased is due to the injury sustained by the deceased. Considering now the investigation is completed and charge-sheet is filed. The role attributed to the present applicant is only to the extent of assault by fist and kick blows. Considering all these above circumstances, further

incarceration of the present applicant is not required. In view of that, application deserves to be allowed. Accordingly, I proceed to pass following order.

ORDER

- (i) The application is allowed.
- (ii) The applicant **Anuj Umesh Dhawale** be released on bail in connection with Crime No.334/2023 registered with Police Station, Rajapeth, Amravati for the offences punishable under Sections 302, 307, 143, 147, 148, 504, 506 and 120-B read with Section 149 of the Indian Penal Code, on executing PR bond in the sum of Rs.25,000/- with one solvent surety in the like amount.
- (iii) The applicant shall not enter into the vicinity of Hanuman Nagar, Kholapuri Gate, Amravati, till the culmination of the trial.
- (iv) The applicant shall not induce, threat or promise any witnesses who are acquainted with the facts of the case.
- (v) The applicant shall not leave the jurisdiction of Amravati District without prior permission of the Court.
- (vi) Contravention of any of the conditions imposed would lead cancellation of the bail.

The application is disposed of.

(URMILA JOSHI-PHALKE, J.)