



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

CRIMINAL APPLICATION (BA) NO. 33 OF 2024

Dinesh s/o Kisanrao Mahiskar

Vs.

State of Maharashtra, Through Police Station Officer Pulgaon, Wardha

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

Court's or Judge's orders

Mr. M. V. Rai, Advocate for applicant.

Mrs. M. H. Deshmukh, APP for respondent/State.

CORAM : URMILA JOSHI-PHALKE, J.

DATED : 02/02/2024

1. The applicant came to be arrested on 26.02.2023 in connection with Crime No.188/2023 registered with Police Station Pulgaon, Wardha for the offence punishable under Section 302 of the Indian Penal Code.

2. The accusation against the present applicant is on the basis of report lodged by his mother Ramabai Kisanrao Mahiskar alleging that on the day of incident i.e. 25.02.2023 her grandson was playing in the courtyard therefore, deceased ran behind him, but the daughter-in-law of the informant got annoyed and abused the deceased and also threatened him. Thereafter, her another son Ranjit came at home and there were abuses with the present applicant and his wife. The present applicant has picked up the wooden

plank which was lying there and assaulted the deceased, due to which deceased sustained the grievous injuries and succumbed to the death.

3. Learned Counsel Mr. Rai for the applicant submitted that considering the allegation as it is, there was no intention to commit the murder. Whatever happened is on the trifle reason during the sudden fight and sudden quarrel. The deceased and the present applicant are the real brothers and the FIR is lodged by the mother of the deceased against the present applicant. Now, the investigation is completed and charge-sheet is filed, further incarceration of the present applicant is not required. He also submitted that considering the nature of the injuries, which are sustained by the deceased are not on the vital part. Only one injury is sustained by him on head, due to which death is caused and above reasons he prays for releasing the applicant on bail.

4. Learned APP strongly opposed the application on the ground that the deceased has sustained in all ten injuries and cause of the death due to head injury. She further submitted that applicant is the real brother of the deceased and all the witnesses are family members. If the applicant is released on bail, he will tamper with the prosecution evidence and the entire trial would be hampered. In view of that, the application deserves to be rejected.

5. Having heard the learned Counsel for the applicant and learned APP for the State. There is no dispute as to the fact that the present applicant is the real brother of the deceased. From the recitals of the FIR it reveals that, on 25.02.2023 there was incident of abusing by the wife of the present applicant to the deceased on account of the trifle reason. Subsequently, the applicant also came there and he also abused the deceased and picked up the wooden plank which was lying there. Thus, there was no pre-mediation and preparation to commit such type of act, whatever happened is in a spur of moment. Now, the investigation is completed and charge-sheet is filed, further incarceration of the present applicant is not required. However, considering the apprehension raised by the learned APP, some conditions requires 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 **Dinesh s/o Kisanrao Mahiskar** be released on bail in connection with crime No.188/2023 registered with Police Station Pulgaon, Wardha for the offence punishable under Section 302 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 Rohana village, till culmination of the trial.

(iv) The applicant shall not induce, threat or promise any witnesses either by contacting them or in any manner.

(v) The applicant shall furnish his cell phone number and address with the address proof regarding the place where he desires to stay after releasing him on bail.

The application is disposed of.

(URMILA JOSHI-PHALKE, J.)