



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

CRIMINAL APPLICATION (BA) NO.56 OF 2024
(Jitesh s/o Suresh Bendekar Vs. State of Maharashtra)

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Mr. S.D. Chande, Advocate for the applicant.
Ms R.V. Sharma, APP for the State.

CORAM:- URMILA JOSHI-PHALKE, J.
DATED :- MAY 7, 2024.

By preferring this application, the applicant is seeking bail under Section 439 of the Code of Criminal Procedure. The applicant came to be arrested on 06/12/2019 in connection with Crime No.971/2019 registered with Police Station Pachpaoli, Nagpur 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, 1951.

2. Learned Counsel for the applicant 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 and the 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. Learned Counsel further submitted that co-accused namely Pintu s/o Suresh Bendekar to whom the major role is assigned as he has assaulted the informant as well as one prosecution witness Piyush is already released on bail. Another co-accused namely Aakash Balaji Kumbhare to whom the role is assigned that he has assaulted the deceased is also 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 eye-witness Vijay is concerned, only role attributed to the present applicant is that he assaulted the informant and assaulted the deceased by kick blows. Now, investigation is already completed, charge-sheet is filed. Since the date of arrest i.e. from 06.12.2019 he is behind bar and there is no progress in the trial, his further incarceration is not required. As far as the criminal antecedents are concerned he already acquitted from the two offences.

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

4. Having heard the learned Counsel for the applicant and learned APP for State and perused the FIR. As per the recitals of the FIR and the role of the present applicant is concerned it is alleged that he has assaulted the informant and subsequently to the deceased by kick blows. The death of the deceased is caused due to the assault on his chest by the co-accused namely Akash Kumbhare who is already released on bail. Learned Counsel for the applicant submitted that the role of the present applicant is lesser than the said Akash Kumbhare who is already released on bail. The applicant is behind bar since 2019, there is no substantial progress in the trial. Hence, the application deserves to be allowed. As far as the contention of the learned APP is concerned about the criminal antecedents which cannot be an impediment to release the present applicant on bail considering his role. Accordingly, I proceed to pass the following order :

(i) The application is allowed.

(ii) The applicant – Jitesh s/o Suresh Bendekar in connection with Crime No.971/2019 registered with Police Station Pachpaoli, Nagpur 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, 1951, be released on bail on his executing a P.R.Bond in the sum of

Rs.25,000/- with one solvent surety of the like amount.

(iii) The applicant shall not enter into the jurisdiction of Pachpaoli police station.

(iv) The applicant shall not directly or indirectly make any inducement and threat or promise to any person acquainted with the facts of the present case.

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

5. The application stands disposed of.

(URMILA JOSHI-PHALKE, J.)

**Divya*