



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

CRIMINAL APPLICATION (BA) NO. 123 OF 2024

Kishorilal @ Gabbu s/o Mishrilal Uikey

Vs.

State of Maharashtra, Through Police Station Officer, Dharni,
District Amravati

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

Court's or Judge's orders

Mr. S. G. Karmarkar, Advocate for applicant.

Mr. Nikhil Joshi, APP for respondent/State.

CORAM : URMILA JOSHI-PHALKE, J.

DATED : 28/02/2024

1. The applicant came to be arrested on 09.03.2023 in connection with Crime No.168/2023 registered with Police Station, Dharni, District Amravati for the offences punishable under Sections 302 of the Indian Penal Code.

2. The accusation against the present applicant is that the present applicant is the husband of the deceased. On 08.03.2023 at about 4.45 p.m. when the informant was at his house, he received the information that deceased was assaulted by the present applicant and she succumbed to the death. He immediately rushed to the spot of incident and saw the deceased in a dead condition. On the basis of said report, police have registered the crime against the present applicant. During the investigation, the Investigating Officer has recorded

the statements of various witnesses, who witnessed the applicant assaulting the deceased and therefore, applicant was arrested.

3. Learned Counsel for the applicant submitted that the deceased was drunker and she has sustained the injuries due to fell down and by taking disadvantage of this fact, the present applicant is falsely implicated by the witnesses. He submitted that now the investigation is completed and charge-sheet is filed. There was no intention to commit the murder of the deceased. Considering now the investigation is completed and charge-sheet is filed, further incarceration of the present applicant is not required and prays for releasing him on bail.

4. Learned APP strongly opposed the application on the ground that there is a direct evidence to show that present applicant has repeatedly assaulted the deceased and immediately she succumbed to the death. Considering the direct evidence against the present applicant, a *prima facie* case is made out and prays for rejection of the application.

5. Having heard the learned Counsel for the applicant, learned APP for the State and perused the investigation papers. During the investigation, the Investigating Officer has recorded the relevant

statements of the witnesses, who had seen the applicant assaulting the deceased. It reveals that the applicant started assaulting the deceased at about 4.30 p.m. and subsequently, at about 4.45 p.m. she was found dead. The postmortem report also shows nine injuries on the person of the deceased. The postmortem report shows that she has sustained the internal injuries i.e. the head injury which is in the nature of laceration right fronto temporal bone corresponding to injury mentioned in column No.17. The death of the deceased is also due to the head injury. Considering the statements of the eye witness which shows that deceased was repeatedly assaulted by the present applicant, who is husband and caused her death. Considering the nature and the circumstances under which the alleged incident has taken place and the injury sustained by the deceased, a *prima facie* case is made against the present applicant. In view of that, the application deserves to be rejected. Accordingly, I proceed to pass following order.

ORDER

The application is rejected.

(URMILA JOSHI-PHALKE, J.)