



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

CRIMINAL APPLICATION (BA) NO.153 OF 2024

Alpesh s/o Kuwarlal Patle

Vs.

State of Maharashtra, Through Police Station Officer, Police Station,
Dawaniwada, District Gondia

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

Court's or Judge's orders

Mr. Tariq Mohammad Zaheer, Advocate for applicant.

Mr. S. C. Joshi, APP for respondent/State.

CORAM : URMILA JOSHI-PHALKE, J.

DATED : 27/03/2024

1. The applicant came to be arrested on 09.10.2023 in connection with Crime No.272/2023 registered with Police Station Dawaniwada, District Gondia for the offence punishable under Section 302 of the Indian Penal Code.

2. The learned Counsel for the applicant submitted that the applicant is arraigned as an accused on the basis of report lodged by Vijesh Patiram Danve on an allegation that on 08.10.2023 at about 4.00 to 4.15 p.m. he and his cousin were chit-chatting in front of Nanu Barewar's Furniture Shop. At that time, the present applicant came there on bicycle. The deceased was also there. He asked to pay him sixty rupees and during that communication, there was an altercation of words between the applicant and the Aakash i.e. deceased,

as the deceased has not paid him the amount. The present applicant gave a fist blow by force on the chest of the deceased. The deceased fallen on the ground and sustained injury and died. On the basis of the said report, police have registered the crime against the present applicant.

3. Learned Counsel for the applicant submitted that as far as the incident is concerned, which took place due to the sudden fight and sudden quarrel between them. He further submitted that there was no intention to commit such type of offence. During the altercation of words, the present applicant gave a fist blow, no weapon is used. There was no knowledge that this act would cause the death of the deceased. Now the investigation is completed and charge-sheet is filed, further incarceration of the present applicant is not required. There is no criminal antecedents against the present applicant, in view of that, he be released on bail.

4. Learned APP strongly opposed the said application on the ground that considering the instantaneous death of the deceased in the said incident, it can be ascertained that the blow was given by force due to which the deceased fallen on the ground and sustained the injuries and died on the spot. He submitted that though the investigation is completed and charge-sheet is filed, the nature of the offence is of a grievous nature. If the

applicant/accused is released on bail, he would tamper with the prosecution evidence. In view of that application deserves to be rejected.

5. Having heard the learned Counsel for the applicant and learned APP for the State, perused the recitals of the FIR. From the recitals of the FIR shows that the present applicant has asked the amount of Rs.60/- from the deceased, as the deceased declined to pay the said amount, there was an altercation of the words and during that hot exchange of words the applicant gave a fist blow on the chest of the deceased and deceased fallen on the ground and sustained injury. Admittedly, whether there was an intention or not to commit the offence is a matter of evidence. At this stage, it reveals from the investigation papers that there was no preparation to eliminate the deceased, but the alleged incident occurred due to the sudden fight and sudden quarrel. Now, the investigation is already completed and charge-sheet is filed, further incarceration of the present applicant is not required. In view of that, the application deserves to be allowed by imposing certain conditions. Accordingly, I proceed to pass following order.

ORDER

- (i) The application is allowed.
- (ii) The applicant **Alpesh s/o Kuwarlal Patle** shall be released on bail in connection

with Crime No.272/2023 registered with Police Station Dawaniwada, District Gondia 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 Boda Taluka Tiroda, District Gondia, 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 attend the dates of the proceedings regularly without seeking any exemption unless there are exceptional circumstances.

The application is disposed of.

(URMILA JOSHI-PHALKE, J.)