



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

CRIMINAL APPLICATION (BA) NO. 171 OF 2024

Abhijit s/o Dilip Ghodeswar
Vs.

State of Maharashtra, Through its Police Station Station Officer, Police
Station, Ajni, Nagpur City

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

Court's or Judge's orders

Ms. Rakhi Sarkar, Advocate for applicant.
Mr. U. R. Phasate, APP for respondent/State.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 06/03/2024

1. The applicant came to be arrested on 24.07.2021 in connection with Crime No.361/2021 registered with Police Station, Ajni, Nagpur City for the offences punishable under Sections 143, 147, 302, 307, 364 and 120-B read with Section 149 of the Indian Penal Code.

2. The accusation against the present applicant is on the basis of report lodged by Gita Gurudev, who alleged that on 23.07.2021 her son Shivam came at home at about 8.00 p.m. and after some time, he left the place. She enquired with one Nishant Arvind Ghodeswar and he disclosed that Sandip Nagarale was assaulted by them and at that time Shivam was along with him. On 24.07.2021 at about 8.30 a.m. her sister-in-law informed her that somebody had committed the murder of said Shivam

and Shivam is lying near the public toilet. Immediately, she rushed to the spot of incident and lodged the report against the present applicant. During the investigation, the Investigating Officer has recorded the relevant statements of the witnesses and the charge-sheet is filed against the present applicant.

3. The learned Counsel for the applicant submitted that the applicant is falsely implicated in the alleged offence merely on suspicion. There is no substantial evidence against the present applicant to connect him with the alleged offence. Now, the investigation is completed and the trial is also on the verge of the conclusion, his further incarceration is not required. Hence, he be released on bail.

4. The learned APP strongly opposed the application and submitted that now, 11 witnesses are already examined by the prosecution. Only the Investigating Officer and the evidence as to the CCTV footage remain to be adduced and the trial will be commenced and concluded within a short period. He further submitted that the applicant is identified as an assailant before the Court. The evidence of the eye witnesses shows the implication of the present applicant in the alleged offence. The deceased was assaulted mercilessly and there was instantaneous death due to the head injury. Considering all these aspect and direct evidence against the present

applicant, the bail application deserves to be rejected.

5. Having heard the learned Counsel for the applicant and learned APP for the State, perused the investigation papers. During investigation, the Investigating Officer has recorded the statements of Balu Devdasrao Davade eye witness, Rakhi Aakash Manwar eye witness. From which, it reveals that the present applicant has assaulted the deceased by throwing piece of cement concrete on his head. The death of the deceased is also due to the head injury. Thus, the present applicant has caused the death of the deceased which is revealed from the investigation papers. As already observed that the trial is already commenced and on the verge of its conclusion. Considering the *prima facie* case against the present applicant in the nature of the eye witnesses and the death of the deceased is due to the head injury which is attributed to the present applicant. The bail application deserves to be rejected. Accordingly, I proceed to pass following order.

ORDER

The application is rejected.

(URMILA JOSHI-PHALKE, J.)