



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

CRIMINAL APPLICATION (BA) NO.187 OF 2024

Shaikh Akbar Shaikh Gaibu

Vs.

The State of Maharashtra, Through Police Station Officer, Police Station
Pusad (Rural), District Yavatmal

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

Court's or Judge's orders

Mr. Mir Rizwan Ali, Advocate for applicant.
Mr. N. B. Jawade, APP for respondent/State.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 10/06/2024

1. The applicant came to be arrested on 18.03.2018 in connection with Crime No.61/2018, registered under Section 302 of the Indian Penal Code. The accusation against the present applicant is on the basis of report lodged by Vikas Vasanta Shelate on an allegation that present applicant was addicted to bad vices like drinking liquor and for drinking liquor he used to threaten the villagers for money. As the deceased has not paid him money, he eliminated him by assaulting him on his neck. On the basis of said report, police have registered the crime.

2. Learned Counsel for the applicant submitted that there is no direct or circumstantial evidence to connect the present applicant with the alleged offence. There is a long gap between the finding of dead body and the present applicant lastly

seen with the deceased. He further submitted that the medical evidence also shows that there was gap of 7 to 8 hours regarding the time of death. He further submitted that considering there are no consistent circumstances against the present applicant to connect him with the alleged offence. Now, the investigation is completed. The applicant is behind bar since 2018. The trial is not concluded, he be released on bail.

3. Learned APP strongly opposed the said application on the ground that the trial is on the verge of conclusion, as now only Investigation Officer remained to be examined. The summons was already issued to the Investigation Officer. He further submitted that on merit also the applicant was lastly seen with the deceased. The weapon is recovered at the instance of the present applicant. Medical evidence and oral evidence supports the case of the prosecution. Considering the *prima facie* material against the present applicant, bail application deserves to be rejected.

4. After hearing the learned Counsel for the applicant and on perusal of the investigation papers, it reveals that initially the crime was registered against the unknown person. During the investigation, the involvement of the present applicant is revealed. From the various statements of the witnesses, it reveals that present applicant

used to threaten the deceased for money. It is further alleged that present applicant was in habit of drinking the liquor and for drinking the liquor he used to demand money from the villagers and on denial of giving the money by the villagers, he used to threaten them by showing the knife. The statement of the witnesses further shows that on the day of incident the witness namely Dilip Ukandrao Aade not only seen the present applicant along with the deceased but subsequently he has also seen the present applicant along with the weapon in his hand. The incriminating weapon is seized by the investigating agency from the present applicant. The said weapon was forwarded to the Medical Officer for obtaining the opinion and the Medical Officer's opinion shows that the said injury can be caused by the incriminating weapon. Thus, the circumstances like the applicant was seen along with the deceased lastly, thereafter the dead body of the deceased was found. The incriminating weapon was seized at the instance of the present applicant. The medical opinion shows the injuries are possible by the said weapon and the statements of the various witnesses also shows the involvement of the present applicant. There are various criminal cases filed against the present applicant which are under Sections 307, 201 of the Indian Penal Code. Thus, criminal antecedents are already there against the present applicant. Considering the manner in which the deceased was eliminated and the *prima facie* involvement of the

present applicant is also revealed from the investigation papers. Now, the trial is on the verge of the conclusion as only Investigating Officer remained to be examined.

5. In the above all circumstances, the application deserves to be rejected. Accordingly, I proceed to pass following order:

The application is rejected.

(URMILA JOSHI-PHALKE, J.)