



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

CRIMINAL APPLICATION (BA) No. 234 OF 2024

Devan Bhedan Purvale V/s 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.S. Agrawal, counsel for the applicant.

Mr. C.A. Lokhande, APP for the non-applicant/State.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 09/07/2024.

1. Heard.
2. The applicant came to be arrested on 20/07/2023, in connection with Crime no. 465/2023 registered with Kanhan Police Station, Nagpur for the offence punishable under Sections 307, 302 read with Section 34 of the Indian Penal Code, 1860.
3. The accusation against the present applicant is on the basis of a report lodged by Yuvraj Bhimraj Gaikwad, alleging that on 20/07/2023 at about 9.00 p.m., when he and his brother were at home, his nephew came, and on inquiry with the nephew, he disclosed that the co-accused and his son abused him. Therefore, the informant and his brother immediately went towards the spot; at that time, they found the present applicant and other co-accused there. During the hot exchange of words between them, the co-accused -Devan Purwale has given a blow of blade on the back of the

informant, whereas the present applicant given a blow of knife on the person of the deceased Jayraj. Immediately, the injured was taken to the hospital, but subsequently, he succumbed to death. On the basis of the said crime, police have registered the crime against the present applicant.

4. Learned counsel for the applicant submitted that the present applicant was not the aggressor, but the informant and his family members were aggressors. It is the case of a single blow; there was no intention to commit murder of the deceased, but during his scuffle in a sudden fight and sudden quarrel, the applicant has given a blow of knife. Therefore, the offence under Section 302 of IPC is not made out at the most, the case covers under Section 304 of the Indian Penal Code. He submitted that now that the investigation is completed and the charge sheet is filed, further incarceration is not required. In view of that, the applicant be released on bail.

5. Learned APP strongly opposed the said application on the ground that the applicant was carrying the knife along with him and was given a blow to a to a vital portion of the body, which proved to be fatal. Considering the manner in which the alleged incident has taken place, the application deserves to be rejected.

6. After hearing learned counsel for the applicant and learned APP for the State, perused the investigation papers. From recitals of the FIR, it reveals that due to the trifle dispute, there was a hot exchange of words between the present applicant and family members of the informant,

wherein the co-accused has given a blow of blade on the back of the informant, whereas the present applicant, who was carrying the knife with him, has given a blow on the abdomen of the deceased.

7. Thus, the intention of the applicant can be gathered from the circumstances that he came on the spot by carrying the said weapon with him and given a blow on the person of the deceased. It is not the case that the knife was lying at the spot of incidence, which was picked up by the present applicant and given a blow. If this would have been a fact, the argument of the learned counsel for the applicant was acceptable, but considering the fact that the applicant was carrying the weapon along with him and given a blow on the vital portion of the body, which proved to be fatal, is sufficient to show the intention of the present applicant.

8. Considering, the prima-facie case made out against the present applicant, the bail application deserves to be rejected. Accordingly, I proceed to pass the following order:

The criminal application is rejected.

[URMILA JOSHI-PHALKE, J.]