



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

CRIMINAL APPLICATION (ABA) NO. 162 OF 2024

Vishwajit @ Papu s/o Vinod Thombre 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. Ajay S. Londhe, counsel for applicant.

Mr. Jawade APP for non-applicant/State.

CORAM : URMILA JOSHI-PHALKE, J.

DATED : 22/03/2024.

1. Apprehending the arrest at the hands of Police in connection with Crime No. 167/2023 registered with Police Station Civil Lines, District Akola for the offence punishable under Sections 302, 201 and Section 120B read with Section 34 of the Indian Penal Code, 1860 and Sections 3/25 and 4/25 of the Arms Act, 1959, the applicant approached this Court for grant of pre-arrest bail.

2. The accusation against the present applicant is on the basis of report lodged by Suresh Tukaram Wakode, on an allegation that on 12/05/2023, the deceased Akash Wakode was in the locality, at that time all the accused came in the vehicle and assaulted him by means of Sword. Initially, they came in the vehicle and gave a dash to the motorcycle of the deceased. Thereafter, the

deceased fell down and thereafter, the present applicant and other co-accused assaulted the deceased, due to which he was in a pool of blood. Immediately he was shifted to the hospital, but it is declared to be dead.

3. Learned counsel for the applicant submitted as far as the present applicant is concerned, no prima-facie case is made out against him. His presence is also not seen by the witnesses, and his custodial interrogation is not required. There are no criminal antecedents against him. He further submitted that only custody as per the investigating agency was required for the purpose of seizure of the mobile. Otherwise, the custodial interrogation of the present applicant is also not required. In view of that, he be protected by granting anticipatory bail.

4. Learned APP strongly opposed the present application on the ground that the name of the present applicant is mentioned in the FIR. During the investigation, the statements of the eye-witnesses are recorded, which shows the direct involvement of the present applicant in the assault on the deceased. He invited my attention towards the Post Mortem Report and submitted that the Post Mortem Report shows that the deceased has sustained as many as eight

injuries in the nature of Chop wounds as well as his Stab wounds, which resulted into the internal injuries. The deceased has sustained injuries on the vital part of the body. The internal injuries are also in the nature of the fracture injuries. Considering the statement of the eye-witness and the role attributed to the present applicant and there is a criminal antecedent against him, in another crime No. 277/2023 is against them, hence, the application deserves to be rejected.

5. Having heard learned counsel for the applicant and learned APP for the State, perused the investigation papers. Learned counsel for the applicant submitted that there is no criminal antecedents and the applicant is not arraigned as an accused in crime No. 277/2023. Besides this aspect, there is another material which connect the present applicant with the alleged offence. The statement of the eye-witnesses and the recitals of the FIR, specifically shows the involvement of the present applicant and the specific role is attributed to him.

6. Moreover, it revealed from the statement of the eye-witness and the recitals of the FIR, that the present applicant along with other co-accused assaulted the deceased by means of Sword i.e. the dangerous weapon, and the deceased sustained the

injuries in the nature of the Chop wound and the Stab wound. The internal injuries show that the force used by the present applicant and the other co-accused while assaulting the deceased. The presence of the applicant is noted by the eye-witness at the spot of the incident and the specific role is attributed to him.

7. Considering the nature of the offence, which is a serious nature, and the deceased was eliminated by the present applicant and the other co-accused for the trifle reason. At this stage, custodial interrogation of the present applicant is required for the instigation purpose. Considering the gravity of the offence and the specific role attributed to the present applicant, the application deserves to be rejected. Accordingly, I proceed to pass the following order:

The criminal application is **rejected**.

[URMILA JOSHI-PHALKE, J]