



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

CRIMINAL APPLICATION (BA) NO. 262 OF 2024

SANGITA SANDIP KHAWLE AND ANOTHER
VS
STATE OF MAH. THR. PSO PS JALAMB DIST.BULDHANA

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Mr. Ranjeet Singh V. Gahilot, counsel for the applicants.
Mr. U.R.Phasate, APP for the non-applicant/State.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 29/04/2024.

1. The applicants came to be arrested on 09/02/2024 in connection with Crime No. 36/2024 registered at Jalamb Police Station District Buldhana for the offence punishable under Sections 304, 323, 341, 294 read with Section 34 of the Indian Penal Code, 1860.

2. The accusation against the present applicants is on the basis of the report lodged by Avinash Prakash Khawale, on an allegation that his grandmother's house was in a dilapidated condition therefore, it was decided that he would purchase repair material and do the repair work. Accordingly, on 08/02/2024 at 9.15 p.m. when he was proceeding on his motorcycle alongwith a vehicle carrying repair material, at that time, the present applicants alongwith other co-accused stopped him in front of the house of one Shalikram Mandokar and told him that he cannot take his vehicle from their agricultural field and abused them. It is further alleged that

Accused No.1 – Sandip Shrikrushna Khawle and Accused No.3 Dhyaneshwar Shrikrushna Khawle manhandled him, his friend - Rushikesh Nirmal and his grandmother Muktabai Eknath Khawle. Thereafter, as there were no visible injuries, he did not go to the hospital, the next day, he filed the complaint. Initially, the offence was registered under Sections 341, 294, 323 of the Indian Penal Code. Subsequently, during the treatment, said Muktabai Eknath Khawle succumbed to the death. On the basis of the said report and as the death of the deceased was caused due to multiple injuries, the offence was registered under Section 304 of the Indian Penal Code against the present applicants.

3. Learned counsel for the applicants submitted that as far as the present applicants are concerned, who are the ladies, against whom, the general allegation is made that they have assaulted the deceased Muktabai Eknath Khawle as well as other prosecution witnesses. He further submitted that from the order of the trial Court, it reveals that the deceased due to old age, prior to the incident was admitted in the hospital, and the death of the deceased was caused subsequently. He further submitted that there were no visible injuries on the person of the deceased on the day of the incident. As far as present applicants are concerned, general allegations are made against them. Now, the investigation is practically completed and further incarceration is not required.

4. Learned APP strongly opposed the said application and invited my attention towards the Post Mortem Report,

which shows that the death of the deceased is caused due to multiple injuries. In Column No.17, he submitted that abrasion on the cheek and the fracture of the ribs are noted. The internal injuries also shows that she had sustained fracture injuries of 5th, 6th, 7th and 8th Ribs. Thus, the death of the deceased is due to the injuries which are caused by the present applicants and other co-accused. He invited my attention towards the various statements and submitted that from the said statement, it is clear that present applicants were present at the spot of the incident and they have also assaulted the deceased by fist and kick blows. During the T.I. Parade, the present applicants are identified the witnesses. Thus, there is a prima-facie material against the present applicants, if they are released on bail, they would tamper with the prosecution evidence and would not be available for trial and prays for rejection of the application.

5. Having heard learned counsel for the applicants and learned APP for the State, perused the investigation papers. From the recitals of the FIR and various statements of the witnesses, it reveals that as the informant was proceeding from the agricultural field of the present applicants, they restrained him, and the quarrel was started between them. During that quarrel, the informant as well as the deceased and one Rishikesh were assaulted. As far as the allegation against the present applicants is concerned, general allegations is made that along with the other co-accused, present applicants have also assaulted the deceased as well as the other prosecution witnesses, informant, and one Rishikesh. The

injuries sustained by the deceased shows that she sustained the fracture injuries i.e. fracture of the ribs and one abrasion. Thus, it is apparent that the injuries are caused by the deceased in a sudden fight and sudden quarrel. Now the investigation is already completed and charge-sheet is filed, the statements of the witnesses are already recorded under Section 164 of the Cr.P.C.. From which also, it reveals that general allegations are made against the present applicants. Admittedly, considering the allegations made against the present applicants, the case covers under the exception that sudden fight and sudden quarrel, no weapon is used by the present applicants. Investigation is practically completed, considering the same, further incarceration of the present applicants is not required. In view of that, they can be released on bail. Accordingly, I proceed to pass the following order:

- (a) The criminal application is **allowed**.
- (b) The *applicant No.1 Sangita Sandip Khawle and (2) Balabai alias Yogita Dyaneshwar Khawle* shall be released on bail, in connection with Crime No. 36/2024 registered at Jalamb Police Station District Buldhana for the offence punishable under Sections 304, 323, 341, 294 read with Section 34 of the Indian Penal Code, 1860, on executing a P.R.Bond in the sum of Rs.25,000/- each with one solvent surety, in the like amount.

- (c) The applicants shall not induce, threat or promise any witnesses who are acquainted with the facts of the present case.

The criminal application is disposed of.

[URMILA JOSHI-PHALKE, J.]