



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

CRIMINAL APPLICATION (BA) NO.241 OF 2024
(Ajay s/o Narendra Meshram Vs. 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. R.M. Daga, Advocate for the applicant.
Ms Prabhu, APP for the State.

CORAM:- URMILA JOSHI-PHALKE, J.
DATED :- APRIL 15, 2024.

By preferring this application, the applicant is seeking bail under Section 439 of the Code of Criminal Procedure. The applicant came to be arrested on 09/11/2023 in connection with Crime No.370/2023 registered with Police Station Walgaon, District Amravati for the offence punishable under Sections 143, 147, 148, 302, 323 and 504 read with Section 149 of the Indian Penal Code.

2. The accusation against the present applicant is on the basis of report lodged by one Bharat Vishwas Gawai on an allegation that his son Sachin was working at godown of liquor shop in front of Mahalaxmi Petrol Pump. On 31/10/2023, at about 10.00 a.m. Sachin has attended the work and about 6.00 p.m. one Siddhu Jawanjal made a phone call to the informant Bharat and informed him that 6 to 7 persons are in search of Sachin. Therefore, informant Bharat left his house and came near Rajput Dhaba where he met Sachin and took Sachin along with

him on his motorcycle. At about 7.30 p.m. co-accused Nagesh Pandit made a phone call to Sachin and when informant and Sachin reached Ashok Nagar, Boudha Vihar. At that time, 6 – 7 persons including the present applicant came and started beating Sachin due to which Sachin fallen on the ground and co-accused Nagesh Pandit gave 4-5 blows of knife on thigh of Sachin. As far as present applicant is concerned it is alleged that he has assaulted the deceased. On the basis of said report, police have registered the crime against the present applicant and other co-accused.

3. Learned Counsel for the applicant submitted that as far as the allegation against the present applicant is concerned which is only to the extent by making a general statement that he had also assaulted the deceased. He also invited my attention towards the various statements including the statements of the independent witnesses wherein also only role attributed to the present applicant that he has assaulted the deceased by fist and kick blows. The postmortem report shows that deceased has sustained the stab wounds which are five in numbers. The death of the deceased is caused due to the said stab wound which is attributed to the co-accused. He submitted that the knife is also seized at the instance of the co-accused on the basis of his memorandum statement.

4. The statement under Section 164 of Cr.P.C. are also recorded of the witnesses in which also the role of the assault was not attributed to the present applicant. As per the 164 statement of the witnesses, present applicant has assaulted the informant. Thus, he submitted that considering the role attributed to the present applicant he has not caused the death of the deceased. In view of that, considering the investigation is completed and charge-sheet is filed, further incarceration is not required. Hence, he be released on bail.

5. Learned APP strongly opposed the said application on the ground that all the accused along with the present applicant in furtherance of their common object caused the death of the deceased. Thus, considering the same, the application deserves to be rejected as prima facie material shows the involvement of the present applicant with the alleged offence.

6. I have heard learned Counsel for both the parties. Perused the investigation papers. On perusal of the investigation papers especially from the recitals of the FIR only role attributed to the present applicant that present applicant came towards the deceased and abused him and assaulted him. Even there is no allegation that he has assaulted the deceased by means of fist and kick blows. Only statement is made that the deceased was assaulted by the present applicant. As far as the cause of death of the deceased is concerned due to the stab wound

and stab wounds are attributed to the co-accused Nagesh Pandit. The incriminating weapon of the offence is also seized from the co-accused Nagesh Pandit. The statements of the independent witnesses are also recorded who have also not attributed any role to the present applicant to the extent that present applicant has assaulted the deceased. Only general statement is made that he was also one of the assailant. The statements of the witnesses are also recorded under Section 164 of the Cr.P.C. wherein the role attributed to the present applicant that he has assaulted the informant. Thus, considering the entire material on record admittedly, the role of causing the death to the deceased is not attributable against the present applicant. Now, investigation is already completed, charge-sheet is filed. Considering the role of the present applicant, further incarceration is not required. Hence, the application deserves to be allowed. Accordingly, I proceed to pass the following order :

(i) The application is allowed.

(ii) The applicant – Ajay s/o Narendra Meshram in connection with Crime No.370/2023 registered with Police Station Walgaon, District Amravati for the offence punishable under Sections 143, 147, 148, 302, 323 and 504 read with Section 149 of the Indian Penal Code, be released on bail on his executing a P.R.Bond in the sum of

Rs.25,000/- with one solvent surety of the like amount.

(iii) The applicant shall not enter into the vicinity of Hatkheda, Taluka Bhatkuli, District Amravati till culmination of the trial.

(iv) The applicant shall not directly or indirectly make any inducement and threat or promise to any person acquainted with the facts of the present case.

(v) The applicant shall furnish his cell phone number and address with the address proof along with the names of his two relatives with their address with address proof.

(vi) The applicant shall attend the proceeding before the Sessions Court without any exemption unless there are exceptional circumstances.

7. The application stands disposed of.

(URMILA JOSHI-PHALKE, J.)