



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

CRIMINAL APPLICATION (BA) NO. 293 OF 2024

Abhay Satish Tiwari

Vs.

State of Maharashtra, Through Police Station Officer, Police Station
Yashodhara Nagar, Nagpur

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

Court's or Judge's orders

Mr. P. M. Ukey, Advocate for applicant.

Mr. N. B. Jawde, APP for respondent/State.

CORAM : URMILA JOSHI-PHALKE, J.

DATED : 13/06/2024

1. The applicant came to be arrested on 13.04.2023 in connection with Crime No.208/2023 registered with Police Station, Yashodhara Nagar, Nagpur for the offences punishable under Sections 302, 307, 323, 504 read with Section 34 of the Indian Penal Code.

2. The accusation against the present applicant is on the basis of report lodged by Ejaz Khan Rahim Khan on an allegation that on 12.04.2023 at about 8.30 p.m. his relatives namely Ayyub Khan and his friends came in the area of Nawaj Nagar. At about 9.00 to 9.15 p.m. they all went to the house of Faizan Khan to give him understanding. At that place there was a hot exchange words between them. At the relevant time, present applicant came there holding knife in his

hand and gave a blow of knife on the abdomen of a Shahabaj Ansari and said Shahabaj Ansari has sustained the injuries and subsequently during the treatment, he succumbed to the death. On the basis of report police have registered the crime against the present applicant.

3. Learned Counsel for the applicant submitted that as per the prosecution case only single blow is given by the present applicant, whereas the postmortem report shows the four stab injuries on the person of the deceased. He further submitted that there is contradiction regarding the statements of the eye witnesses and the medical evidence. Now, the investigation is already completed, charge-sheet is filed, further incarceration of the present applicant is not required. There was no intention on the part of the present applicant to commit the murder and to eliminate the deceased, in view of that, the present applicant be released on bail.

4. Learned APP strongly opposed the said application on the ground that there is a direct evidence in the nature of the eye witnesses to show the involvement of the present applicant. The overt act is attributed to the present applicant, who was carrying the knife along with him and gave a blow of knife on the person of the deceased, due to which the deceased succumbed to the death. Thus,

considering the *prima facie* material against the present applicant, bail application deserves to be rejected.

5. After hearing the learned Counsel for the applicant and learned APP for the State. Perused the investigation papers, from which it reveals that the deceased Shahabaj Ansari came there to intervene in the quarrel, but the present applicant who was carrying the knife along with him gave a forceful blow of that knife on the abdomen of the deceased, due to which the deceased sustained grievous injury and during the treatment, he succumbed to the death.

6. During the investigation, the Investigating Officer has also recorded the statements of the eye witnesses which shows that when the informant and his relatives had been to the house of Faizan to give him understanding regarding the previous quarrel. At that time, deceased Shahabaj Ansari also came there to intervene in the quarrel, but the present applicant who was carrying the knife gave a blow of knife on the vital portion of the body, due to which deceased sustained the grievous injury, which resulted into his death. The circumstance that the applicant was carrying the knife itself is sufficient to show his intention. At that stage, *prima facie* case is made out against the present applicant. Considering the gravity of offence and apprehension of tampering the witnesses, the application deserves to be

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rejected. Accordingly, I proceed to pass following order:

The application is rejected.

(URMILA JOSHI-PHALKE, J.)

Sarkate