



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

CRIMINAL APPLICATION (BA) NO. 311 OF 2024

Harshal s/o Diliprao Paratkar
Vs.

State of Maharashtra, Through Police Station Officer, Deoli Police Station
District Wardha

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

Court's or Judge's orders

Mr. D. R. Bhoyar, Advocate for applicant.
Mr. M. J. Khan, APP for respondent/State.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 13/06/2024

1. The applicant came to be arrested on 10.09.2023 in connection with Crime No.942/2023 registered with Police Station Deoli, District Wardha for the offences punishable under Sections 302 and 460 of the Indian Penal Code.

2. The accusation against the present applicant is on the basis of report lodged by one Pravin Arunrao Dahake on an allegation that on 08.09.2023 his mother had been to be her sister's house at Wardha and his father was watching television in his room. The informant and his wife were in their room. On next day, on 09.09.2023, in the early morning when his elder son Sahil went in the room of his grandfather and informed that his grandfather is lying in an injured condition. The informant immediately, rushed to the bedroom of his

father and saw that his father was lying in the pool of blood and sustained various injuries. One vegetable cutter having blood stains on it was also lying there. He immediately informed to the police. It further revealed to him that steel boxes were lying open and clothes from the cupboard were scattered and there was theft of Rs.1,00,000/- from his house. On the basis of the said report, police have registered the crime against the present applicant.

3. Learned Counsel for the applicant submitted that the entire case is based on the circumstantial evidence. As far as the identification parade is concerned, which is not according to the rules and regulations. He further submitted that the prosecution relied upon on the statement of witness namely, Namdeo Rohane who has seen the present applicant and the other co-accused proceeding towards the house of the deceased. He further submitted that except this circumstance, there is no other material to connect the present applicant in the alleged offence. Considering the investigation is completed and charge-sheet is filed, the applicant is aged about 19 years, there are no criminal antecedents, his further incarceration is not required and therefore, he be released on bail.

4. Learned APP strongly opposed the said application on the ground that during the investigation it revealed that the co-accused who is child in conflict with law is the grandson of the

deceased. He along with the present applicant entered into the house of the deceased committed the theft of cash amount and also caused the death of the deceased. He submitted that not only the cash amount, but the co-accused has also taken the golden ornaments. He submitted that during the investigation, the statement of witness namely Namdeo is recorded by the Investigating Officer shows the presence of the applicant along with the child in conflict with law near the spot of incident. He invited my attention towards the various statements of the witnesses which shows that on the day of incident and prior to that also the applicant and the child in conflict with law along with the other co-accused were consistently together visited various places.

5. He also invited my attention towards the statement of one shop owner which shows that present applicant has purchased some clothes from the said shop. The receipt is also in the name of the present applicant. He also invited my attention towards the statement of mother of the child in conflict with law and the wife of the deceased which also shows that on the day of incident child in conflict with law left the house on the pretext of attending the birthday of his friend. Thus, he submitted that considering not only the identification parade, but the other circumstantial evidence which connect the present applicant with the alleged offence. He also

invited my attention towards the postmortem report wherein in all 17 injuries are found on the person of the deceased. On the basis of the said material, he submitted that *prima facie* is made out against the present applicant and therefore, application deserves to be rejected.

6. After hearing the learned Counsel for the applicant and learned APP for the State. Perused the recitals of the FIR as well as the investigation papers, from which it reveals that child in conflict with law is the grandson of the deceased. He has left the house on the pretext of attending the birthday of his friend. Thereafter, he was seen along with present applicant near the house of the deceased. The spot panchnama shows that the weapon which is used is the vegetable cutter which was lying at the spot of incident as well as the spot panchnama also shows that the theft was committed of golden ornaments and cash amount in the said house. Thus, the motive is also suggested by the prosecution to commit such offence.

7. During the investigation, various statements were recorded by the Investigating Officer which shows that the applicant and the child in conflict with law were consistently together visited various places and their presence with each other was noted by the witnesses namely, the clothes of owner and sugarcane juice shop owner. The postmortem report shows in all 17 injuries are

sustained by the deceased. The applicant is also identified during the identification parade, its admissibility is the matter of evidence. At this stage, whether there is a *prima facie* case made out against the present applicant or not is to be seen.

8. After going through the entire record, it reveals that the circumstantial evidence which was collected during the investigation is sufficient to show the involvement of the present applicant. The nature and the circumstances under which the alleged incident has taken place and the manner in which the murder was committed is also relevant in the present matter. The deceased who is old aged person has sustained in all 17 injuries and the said alleged incident appears to be taken place to commit the theft. The statement of all witness also shows that after the incident, the present applicant has repaid the amount of Rs.10,000/- which he had taken as a hand loan. Thus, considering entire circumstances which are brought on record during the investigation, sufficiently shows the involvement of the present applicant in the alleged offence. Considering the *prima facie* case against the present applicant, gravity of the offence for which the punishment of life imprisonment is provided and apprehension raised that if the applicant/accused is released on bail, he would not be available for trial and tamper with the prosecution evidence, the bail application deserves to

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be rejected. Accordingly, I proceed to pass following order:

The application is rejected.

(URMILA JOSHI-PHALKE, J.)

Sarkate