



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

CRIMINAL APPLICATION (BA) NO.365 OF 2024

Jivanu s/o Rimakhlal Dhurve

Vs.

State of Maharashtra, Through Police Station Officer, Police Station,
Shendurjana Ghat, District Amravati Rural

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

Court's or Judge's orders

Ms. F. N. Haidari, Advocate for applicant.
Ms. H. N. Prabhu, APP for respondent/State.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 09/05/2024

1. The applicant came to be arrested on 03.04.2022 in connection with Crime No.154/2022 registered with Police Station Shendurjana Ghat, District Amravati for the offence punishable under Section 302 of the Indian Penal Code.

2. The accusation against the present applicant is on the basis of report lodged by one Sunil Santlal Tumdam, who is the brother-in-law of the accused. It is alleged that the marriage of the sister of informant namely Fulwanti was performed with the present applicant and after marriage, they were residing at Charneti Dagadiya, Chindwada. The applicant has ill-treated his wife under the influence of liquor and therefore, she came to reside at her parents house and was residing at Malkapur with her children along with mother deceased Chandrakala.

As per the allegation, on 03.04.2022 at about 1.30 a.m. the present applicant entered into the house under the influence of liquor and started assaulting his wife at that time, deceased intervened and tried to remove him from the house. At that time, present applicant took wooden plank which was lying there and gave blow on the head of the deceased. Being deceased is old aged person succumbed to the death instantaneously. On the basis of report, police have registered the crime against the present applicant.

3. Learned Counsel for the applicant submitted that the applicant has not come along with any weapon by preparing to eliminate the deceased. Whatever happens in a sudden fight and sudden quarrel. She further submitted that the investigation is already completed and charge-sheet is filed. The entire case rested on sole eye witness i.e. the wife of the present applicant/daughter of the deceased. Considering the apprehension that he may tamper the prosecution evidence, some conditions can be imposed on him, in view of that prays for releasing him on bail.

4. Learned APP strongly opposed the said application on the ground that there was an allegation against the present applicant that he used to ill-treat the wife and therefore, there used to be quarrel between them. Prior to the incident also, he had been to the house of the wife and assaulted her

and on the day of incident also, he started assaulting her and therefore, deceased intervened, but she was assaulted by the present applicant and deceased succumbed to the death. Considering the entire case is rested on the sole eye witnesses i.e. wife of the present applicant, if he is released on bail he would tamper with the prosecution evidence.

5. After hearing the learned Counsel for the applicant and learned APP for the State, perused the recitals of the FIR and the relevant statements of the witnesses. The entire allegation against the present applicant is that he is the husband of Fulwanti Durve and the deceased is her mother. As per the allegation after marriage, present applicant was addicted to drink the liquor and under the influence of liquor, he used to assault her and therefore, she left her matrimonial house and joined the company of her mother. Present applicant visiting her house and was assaulting her. On the day of incident also, he entered into the house and started assaulting his wife and therefore, deceased intervened and the present applicant took wooden plank lying there and gave blow on her head and therefore, she died. Thus, from the recitals of the statement and entire investigation papers, it reveals that there was no preparation to eliminate the deceased whatever happened in a sudden quarrel. The investigation is now completed and charge-sheet is filed. Considering the circumstances, under which the alleged incident

has taken place, his further incarceration is not required. Accordingly, I proceed to pass following order:

- (i) The application is allowed.
- (ii) The applicant **Jivanu s/o Rimakhilal Dhurve** shall be released on bail on executing PR bond in the sum of Rs. 25,000/- with one solvent surety in the like amount, in connection with Crime No.154/2022 registered with Police Station Shendurjana Ghat, District Amravati for the offences punishable under Section 302 of the Indian Penal Code.
- (iii) The applicant shall attend Shendurjan Ghat Police Station twice in a month i.e. on 1st and 15th of every month and the Investigating Officer shall record his presence.
- (iv) The applicant shall not enter into the vicinity of Malkapur, till culmination of trial.
- (v) The applicant shall not induce, threat or promise any witnesses who are acquainted with the facts of the case.
- (vi) Contravention of any of the terms imposed on the present applicant would lead to the cancellation of the bail.

6. The application is disposed of.

(URMILA JOSHI-PHALKE, J.)