



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

CRIMINAL APPLICATION (BA) NO.361 OF 2024

Bhaurao s/o Shriram Ganagawane

Vs.

State of Maharashtra, Through Police Station Officer, Police Station,
Asegaon, District Washim

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

Court's or Judge's orders

Mr. A. M. Jaltare, Advocate for applicant.

Mr. D. V. Chauhan, Public Prosecutor for respondent No.1/State.

Mr. S. D. Chande, Advocate for assist to prosecution.

CORAM : URMILA JOSHI-PHALKE, J.

DATED : 02/05/2024

1. The applicant came to be arrested on 21.02.2024 in connection with Crime No.344/2023 registered with Police Station Asegaon, District Washim for the offences punishable under Sections 302 and 506 read with Section 34 of the Indian Penal Code.

2. The accusation against the present applicant is on the basis of report lodged by son of the deceased Atish Sanjay Gangawane who alleged that there was a previous dispute between the present applicant and his father and his cousin uncle has lodged the report against the son of the present applicant at the Police Station. On 29.11.2023 at about 5.00 p.m. he had been to his agricultural field, at the relevant time his father was also in the

agricultural field. At about 7.00 p.m. when he came at the Bus Stand, he heard the shouts in a loud voice and therefore, he immediately rushed towards the spot from which he heard the shouts and witnessed that the son of the present applicant assaulting his father by giving blow of brick on his head. His father sustained grievous injury on his head. At the relevant time he also saw the present applicant leaving the said place. On the basis of said report, police have registered the crime against the present applicant and the co-accused.

3. Learned Counsel Mr. Jaltare submitted that as far as the role of the present applicant is concerned, except the presence, there is no other vital role attributed to him by the informant. During investigation, the Investigating Officer has recorded some statements wherein it is alleged that present applicant has hold the collar of the deceased and the co-accused has given the blow.

4. He also invited my attention towards the subsequent statement of Kiran Maroti Gangawane who has also stated that the informant has disclosed to the persons who gathered there that it was the co-accused who assaulted his father. Thus, there is no reference of any role attributed to the present applicant. He submitted that now investigation is already completed, charge-sheet is filed, further

incarceration of the present applicant is not required and therefore, he be released on bail.

5. Learned Public Prosecutor strongly opposed the said application on the ground that in furtherance of the common intention of both the accused the co-accused has assaulted the deceased and the death of the deceased is caused.

6. Learned Counsel Mr. Chande for the informant has strongly opposed the said application on the ground that there was a previous enmity and due to the previous enmity both the applicants have assaulted the deceased and the death of the deceased is caused. If the applicant is released on bail, there is every possibility of tampering the witnesses and prays for rejection of the application.

7. Having heard the learned Counsel for the applicant and learned Public Prosecutor for the State and learned Counsel for the informant, perused the recitals of the FIR. Admittedly, in the FIR which is lodged by the son of the deceased, who is the eye witness of the incident has not attributed any role to the present applicant, except his presence. During investigation, some statements are recorded from which it reveals that only role attributed to the present applicant is that he has hold the collar of the deceased. The statement of one of the witnesses shows that the informant has disclosed to all the

villagers that it was co-accused who has assaulted the deceased by means of brick. Thus, considering the role of the present applicant, except his presence no other specific role is attributed to him. Now investigation is already completed, charge-sheet is filed, his further incarceration is not required. In view of that, the application deserves to be allowed. Accordingly I proceed to pass following order:

ORDER

(i) The application is allowed.

(ii) The applicant **Bhaurao s/o Shriram Ganagawane** shall be released on bail in connection with Crime No.344/2023 registered with Police Station Asegaon, District Washim for the offence punishable under Sections 302 and 506 read with Section 34 of the Indian Penal Code, on executing PR bond in the sum of Rs.25,000/- with one solvent surety in the like amount.

(iii) The applicant shall not induce, threat or promise any witnesses who are acquainted with the facts of the case.

(iv) The applicant shall attend the proceeding before the trial Court without seeking any exemption unless there are exceptional circumstances.

8. The application is disposed of.

(URMILA JOSHI-PHALKE, J.)