



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

CRIMINAL APPLICATION (BA) NO.399 OF 2024
(Gajanan Pralhad Wadhankar 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. A.C. Jaltare, Advocate for the applicant.
Mr. H. Dhumale, APP for the State.

CORAM:- URMILA JOSHI-PHALKE, J.
DATED :- MAY 7, 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 29/11/2023 in connection with Crime No.585/2023 registered with Police Station Pardi, Nagpur, District Nagpur for the offence punishable under Sections 302 of the Indian Penal Code.

2. The accusation against the present applicant is on the basis of report lodged by the wife of the deceased on an allegation that her husband was a vegetable vendor and was running his business at Punapur road in front of the shop of the present applicant. On 28/11/2023, there was hot exchange of words between the father of the applicant and the deceased on account of installing the vegetables in front of the shop. Therefore, the present applicant went there to intervene in the said altercation but he could not pacify the said quarrel, and therefore, he went inside the shop, brought the stick and gave a blow of

the stick on the head of the deceased. The deceased sustained injury and thereafter it was the present applicant who took the deceased in the hospital wherein deceased was declared dead. On the basis of said report, police have registered the crime against the present applicant.

3. Learned Counsel for the applicant submitted that as far as the occurrence is concerned admittedly in a sudden fight and sudden quarrel the alleged incident has taken place. There may be the provocation at the hands of the deceased and therefore, present applicant has brought the stick and gave a blow on the person of the deceased. There was neither preparation nor intention to eliminate the deceased. Now, investigation is already completed and charge-sheet is filed, further incarceration of the present applicant is not required as there are no criminal antecedents against the present applicant.

4. Learned Additional Public Prosecutor strongly opposed the application on the ground that it is not a case of a solitary blow given in a heat of anger but the repeated blows are given on the head of the deceased, deceased died due to the head injury. The statements of the eye-witnesses shows the involvement of the present applicant. Present applicant went inside the shop, brought the stick and gave a blow by the stick on the head of the deceased shows his intention. In view of that, the application deserves to be rejected.

5. I have heard learned Counsel for both the parties and perused the investigation papers. Undisputedly, the alleged incident has occurred on account of installing the vegetable shop in front of the shop of the present applicant. There was hot altercation of the words between the father of the present applicant and the deceased. It is alleged that there were abusing to each other, and therefore, the present applicant went to pacify the quarrel but he could not pacify the quarrel, and therefore, he brought the stick and gave a blow of the stick on the head of the deceased. Thus, from the various statements of the witnesses and the recitals of the FIR it reveals that whatever happened in a sudden fight and sudden quarrel. Whether there was an intention to commit murder or not is a matter of evidence. Admittedly, considering the statement of the informant and the other witnesses it shows that there was no previous animosity between the present and the deceased. As the father of the applicant allegedly abused by the deceased and therefore, applicant went there and the alleged incident has occurred. Now, investigation is already completed and charge-sheet is filed. Whether it is a culpable homicide amounting to murder or not amounting to murder is a matter of evidence. At this stage, there are no criminal antecedents against the present applicant and the alleged incident occurred due to the sudden fight and sudden quarrel between the present applicant and the deceased and it was the present applicant who took the deceased to

the hospital, the application deserves to be allowed by imposing certain conditions. Accordingly, I proceed to pass the following order :

(i) The application is allowed.

(ii) The applicant – Gajanan Pralhad Wadhankar in connection with Crime No.585/2023 registered with Police Station Pardi, Nagpur, District Nagpur for the offence punishable under Sections 302 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 Ghatate Nagar, Punapur Road, Pardi, Nagpur, District Nagpur till the 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.

6. The application stands disposed of.

(URMILA JOSHI-PHALKE, J.)