



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

CRIMINAL APPLICATION (BA) NO.509 OF 2024

(Khemraj s/o Aabaji Barsagade Vs. The State of Maharashtra thr. PSO PS Shegaon
(Bu), Dist. Chandrapur)

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

Court's or Judge's orders.

Mr. M. Rai, Advocate for Applicant.
Ms. Soniya Thakur, APP for Non-Applicant/State.

CORAM: URMILA JOSHI PHALKE, J.

DATE: 2nd JULY, 2024.

1. Heard.
2. The applicant came to be arrested on 09.11.2023, in connection with Crime No.363/2023 registered with Police Station Shegaon (Bu), District Chandrapur for the offence punishable under Section 302 of the Indian Penal Code.
3. As per the prosecution case FIR is lodged by son of the deceased namely Nageshwar Dadaji Marape, who alleged that on 06.11.2023 his father was dropped at home by his cousin uncle and his father complained that he is having chaste pain. Therefore, he immediately taken to the hospital but he was declared dead. Subsequently, he came to know that his father was assaulted by present applicant Khemraj Barsagade by fists and kick blows, due to which his father sustained the internal injuries and succumbed to the

death. On the basis of said report, police have registered the crime against the present applicant.

4. Learned counsel for the applicant Mr. Rai submitted that as far as the intention is concerned there was no intention to eliminate the deceased whatever happened as per the statements of the eye witnesses also in a spur of moment in a sudden fight and sudden quarrel on a trifle reason. Even accepting the case of the prosecution as it is, case covers under the exception of sudden fight and quarrel under Section 300 of the IPC. He submitted that investigation is already completed and the charge-sheet is already filed. Further incarceration of the present applicant is not required. He also invited my attention towards the first information report filed by the informant wherein he has named any person and asked the investigating agency to investigate regarding the death of his father. On the above grounds he claimed that as now investigation is already completed and the charge-sheet is already filed. At the most case covered under Section 304 Part-II of the IPC for which punishment upto the imprisonment of ten years provided the applicant is behind bar for a sufficient period and therefore, he be released on bail.

5. Learned APP strongly opposed the said application on the ground that internal injuries are sustained by the deceased itself is sufficient to show that he was assaulted to such an extent that his ribs were fractured. Considering the nature of the offence for which punishment

of imprisonment of life is provided and the act of the accused and if he released on bail he will tamper with the prosecution witnesses. In view of that, the application deserves to be rejected.

6. Heard both the side. Perused the investigation papers from the investigation papers it reveals that the eye witness stated in their statement that there was quarrel between the deceased and the present applicant on a trifle reason that the applicant was asking the deceased to change the tyre of the tractor but the deceased was not ready to stop there and therefore, the present applicant slapped him and he fallen on the ground and thereafter the present applicant assaulted by fists and kick blows which resulted into his death. Thus, it is apparent that on a trifle reason the quarrel started suddenly between the present applicant and the deceased and in that present applicant has assaulted by means of fists and kick blows which resulted into the death of the deceased. Admittedly, no weapon is used by the present applicant as far as the intention is concerned which cannot be attributed considering the case covers under the exception sudden fight and sudden quarrel under Section 300 of IPC. Now investigation is already completed, charge-sheet is filed. At the most knowledge can be attributable to the present applicant. Considering the fact that the investigation is already completed, charge-sheet is already filed. Further incarceration of the present applicant is not required. The application deserves to be allowed.

Accordingly, I proceed to pass following order:

- a] The application is allowed.
- b] The applicant – Khemraj s/o Aabaji Barsagade, shall be released on bail in connection with Crime No.363/2023 registered with Police Station Shegaon (Bu), District Chandrapur for the offence punishable under Section 302 of the Indian Penal Code on executing P.R. bond in the sum of Rs.25,000/- with one solvent surety in the like amount.
- c] The applicant shall not induce, threat or promise to any witnesses who are acquainted with the facts of the present case.
- d] The applicant shall not enter into the village Nanded, Tahsil Nagbhid, District Chandrapur till culmination of the trial.
- e] The applicant shall attend the proceeding before the Sessions Court without seeking any exemption and there are exceptional circumstances the trial Court shall not be influenced that the observation made by

this Court which is only for the purpose of bail.

7. The application is disposed of.

JUDGE

NSN