



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

CRIMINAL APPLICATION (BA) NO.511 OF 2024

(Durgesh @ Dyaneshwar s/o Ram @ Rameshwar Tode and others Vs. State of Maharashtra thr. PSO PS Sindkhed Raja, Tah. Sindkhed Raja, District Buldhana)

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

Court's or Judge's orders.

Mr. R. M. Daga, Advocate for Applicants.
Mr. A. G. Mate, APP for Non-Applicant No.1/State.
Mr. V. K. Paliwal, Advocate for Non-Applicant No.2.

CORAM: URMILA JOSHI PHALKE, J.

DATE: 4th JULY, 2024.

1. Heard.
2. The applicant No.1 came to be arrested on 03.02.2024 whereas applicant Nos.2 and 3 are arrested on 30.01.2024 in connection with Crime No.19/2024 registered with Police Station Sindkhed Raja, District Buldhana for the offences punishable under Sections 143, 147, 148, 302, 341, 324, 323, 504, 354, 354-A, 354-D read with Section 149 of the Indian Penal Code and Section 8 and 12 of the Protection of Children from Sexual Offences Act.
3. The crime is registered on the basis of report lodged by Nitesh Tulshiram Kamble, who is brother of the deceased, as per his allegation on 29.01.2024 at about 07:30 p.m. when his elder brother Satish was proceeding on his motor-cycle and the informant and his father were

proceeding on their motor-cycle, they all reached in-front of the house of one Sheikh Master at that time co-accused Suraj Gajanan Tode has restrained the vehicle of his brother and started abusing him. The quarrel was started between them at the relevant time co-accused Suraj called his relatives including the present applicant. It is alleged that all the accused assaulted them by means of wooden log. It is specifically alleged that the co-accused Kishor Tode and Ram Tode assaulted by means of wooden logs whereas Gopal Gajanan Tode and present applicant Dnyanehwar Tode assaulted his father by slaps and fist blows. The applicant Nos.2 and 3 forced deceased Satish and the co-accused gave a blow of knife on the left thigh of the deceased. On the basis of said report police have registered the crime against the present applicant.

4. Heard learned counsel Mr. Daga for the applicant, he submitted that as far as the role attributed to the applicant No.1 is concerned who assaulted the father of the deceased by means of slaps and fist blows and as per the allegation the applicant Nos.2 and 3 forced at the relevant time co-accused Suraj has given the blow by knife on the left thigh of the deceased. He submitted that even considering the role of the applicant Nos.2 and 3 the injury is not on the vital part. In a sudden fight the alleged incident has taken place and role of giving the blow by knife is attributed to the child in conflict. He submitted now investigation is already completed, charge-sheet is already filed. Further incarceration of the present applicants is not

required. In view of that, they be released on bail.

5. The learned APP for the State and the learned counsel for the complainant strongly opposed the said application on the ground that all the accused in furtherance of their common object came at the spot of incident by posing weapons in their hand and in furtherance of their common object they have assaulted the deceased as well as other family members. Considering the role of the present applicants the bail application deserves to be rejected.

6. After hearing the learned counsel for the applicant and the learned APP for the State as well as learned counsel for the complainant. Perused the investigation papers, from the recitals of the FIR and various statements recorded by the Investigating Officer shows that role attributed to the applicant No.1 and he has assaulted the father of the deceased by means of slaps and fists. The father of the deceased have sustained the injuries which are in the nature of abrasion and blunt injuries which are simple in nature. As far as the applicant Nos.2 and 3 are concerned who were holding the deceased and it was the child in conflict who has given the blow of knife on the left thigh of the deceased. The probable cause of death is hemorrhagic shock caused by injury to artery in a thigh. Thus, the cause of death injury is not attributed to the present applicant. The statements of the eye witnesses also define the similar role to the present applicant. Considering, now investigation is already completed, charge-sheet is already filed and considering the role

attributed to them their further incarceration is not required. In view of that, the application deserves to be allowed by imposing certain conditions. Accordingly, I proceed to pass following order:

- a] Application is allowed.
- b] The applicant Nos.1 to 3 are hereby released on bail in connection with Crime No.19/2024 registered with Police Station Sindkhed Raja, Tahsil Sindkhed Raja, District Buldhana for the offences punishable under Sections 143, 147, 148, 302, 341, 324, 323, 504, 354, 354-A, 354-D read with Section 149 of the Indian Penal Code and Section 8 and 12 of the Protection of Children from Sexual Offences Act on executing P.R. bond in the sum of Rs.25,000/- each with one solvent surety in the like amount.
- c] The applicant Nos.1 to 3 shall not induce, threat or promise to any witnesses who are acquainted with the facts of the present case.
- d] The applicant Nos.1 to 3 shall not enter into the vicinity of Sindkhed Raja, Tahsil Sindkhed Raja, District Buldhana, till culmination of the trial.

e] The applicant Nos.1 to 3 shall attend the proceeding before the Sessions Court without seeking any exemption unless there are exceptional circumstances.

7. The application is disposed of.

JUDGE

NSN