



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

CRIMINAL APPLICATION (BA) NO.554 OF 2024
(Pravin Wamanrao Suryawanshi 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. S.A. Chaudhari, Advocate for the applicant.
Mr. A.G. Mate, APP for the State.

CORAM:- URMILA JOSHI-PHALKE, J.
DATED :- JULY 8, 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 26/07/2023 in connection with Crime No.584/2023 registered with Police Station Pusad, District Yavatmal for an offence punishable under Sections 143, 147, 148, 302, 323 read with Section 149 of the Indian Penal Code.

2. Learned Counsel for the applicant submitted that the crime is registered on the basis of report lodged by Balu Ananda Bhagat alleging that on 20/07/2023 at about 8:00 p.m. when he was proceeding at home he heard the noise of quarrel near the water tank in Bajrang Nagar. He immediately rushed to the spot of incident, at that time he witnessed that present applicant and other co-accused were assaulting the deceased by means of stone. It is further alleged that co-accused Ashish Suryawanshi and Bhushan Jogdande pushed the deceased on the ground and thereafter present applicant and the

other co-accused assaulted him by means of stone due to which the deceased has sustained the injuries and succumbed to the death. 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 role of the present applicant is concerned, as per the allegation he has assaulted by means of stone. The postmortem report shows that the death is due to the head injury with fracture of frontal bone with brain matter exposed. There is a general allegations against the present applicant. Now, investigation is already completed and charge-sheet is filed. The other co-accused namely Vaibhav Subhash Dhadave, Rashtrapal Shirsat, Rupesh @ Kiran Waghmare, Pravesh @ Banti Narayan Hanvate are already released on bail by the trial Court. Therefore, on the ground of parity present applicant be released on bail. He further submitted that, it is alleged that there was a previous enmity between them and due to which the deceased was eliminated. However, there is no direct evidence against the present applicant to show that there was any enmity between them. Considering the investigation is completed and charge-sheet is filed, further incarceration is not required. In view of that, the application deserves to be allowed.

4. Learned APP strongly opposed the application on the ground that there is a direct evidence in the nature of the eye-witnesses who have witnessed the incident. The death of the deceased is also due to the head injury. Admittedly, there was a previous enmity between the present applicant and the deceased and that is the motive for the applicant to commit the murder of the deceased. He also invited my attention towards the various statements of the witnesses and submitted that *prima facie* case is made out against the present applicant and ground of parity is not available to the present applicant as role of the accused who are released on bail is completely different than the role of the present applicant.

5. I have heard learned Counsel for both the parties. Perused the investigation papers from which it reveals that due to the previous dispute between the deceased and the present applicant, deceased was caught by the present applicant and other co-accused. Two of the co-accused pushed him, and therefore, he fallen down on the ground and thereafter present applicant has pelted stones on his person due to which he sustained the injuries. The informant is the eye-witness of the said incident thereafter the vehicle which was used in the crime is also seized at the instance of the co-accused namely Roshan Dilip Jogdande. The statements of the eye-witnesses also disclosed the involvement of the present applicant in the alleged incident. Considering the connection of the present applicant which appears from

the statements of the eye-witnesses as well as the death of the deceased is also due to the head injury, *prima facie* case is made out against the present applicant. Considering the gravity of the offence and the direct role attributed to the present applicant, *prima facie* case is made out. In view of that, the application deserves to be rejected.

6. Hence, the application is rejected accordingly.

(URMILA JOSHI-PHALKE, J.)

**Divya*