



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

CRIMINAL APPLICATION NO.1355 OF 2024
IN
CRIMINAL APPLICATION (BA) NO.583 OF 2024
(Ashish Prabhakar Nichat 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. P.V. Navlani, Advocate for the applicant.
Mr. D.V. Chauhan, Public Prosecutor for the State.

CORAM:- URMILA JOSHI-PHALKE, J.
DATED :- AUGUST 1, 2024.

By this application, the State is seeking permission to file the reply manually.

2. Learned Public Prosecutor submitted that due to the technical difficulty, the State could not file the reply by e-filing and in view of Section 12(i) of E-filing Rules of the High Court of Bombay 2022 exemption be granted to file the reply.

3. Considering the reasons mentioned in the application, the State is exempted to file reply through e-filing.

4. The application is allowed.

5. The reply is taken on record.

CRIMINAL APPLICATION (BA) NO.583 OF 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

14/01/2024 in connection with Crime No.32/2024 registered with Police Station Frezarpura, Amravati for the offence punishable under Sections 294, 302, 307, 323, 326 and 201 read with Section 34 of the Indian Penal Code. Initially the crime is registered under Section 326 of the IPC and subsequently converted for an offence punishable under Section 302 of the Indian Penal Code.

2. Learned Counsel for the applicant submitted that as per the accusation against the present applicant is on the basis of report lodged by Gajanan Sangitrao Gaikwad alleging that his niece deceased - Sushma Rinku Yadav was residing in rental house at Yashoda Nagar along with his son. She had a quarrel with the present applicant who is her neighbour and during the said quarrel, the present applicant brought the iron rod and gave a blow of iron rod on head. After sustaining the injury, she was admitted in the hospital however, during treatment there was complications due to the head injury and subsequently she died due to the septicemia. On the basis of said report, police have registered the crime.

3. Learned Counsel for the applicant submitted that in a sudden fight between the neighbours the blow was given. Now investigation is completed and charge-sheet is filed. The injury is not the direct cause of death. It was because of some complications the septicemia was developed, and therefore, injured died. Considering the investigation is completed and charge-sheet is filed,

further incarceration of the applicant is not required. In support of his contention, he placed reliance on *Ajay Dhavji Chavan and ors. Vs. State of Maharashtra [AIR Online 2021 Bom 1124]* wherein it has been held that whether the injuries, those were caused to the head of the deceased, in fact, were with intention to commit murder or not, will have to be considered on the basis of the evidence that would be led before trial Court. Considering this aspect and evidence collected the accused released on bail.

4. Learned Public Prosecutor strongly opposed the application on the ground that it is not in a sudden fight, the blow was given by the iron rod which was lying at the spot of incident but the statement of the witnesses and the CCTV footage shows that the applicant went at his house, brought the said iron rod and thereafter gave a blow on the vital part of the body which is sufficient to show his intention. In view of that, the application deserves to be rejected.

5. I have heard learned Counsel for both the parties. Perused the investigation papers from which it reveals that in a quarrel with the neighbour, the alleged incident has taken place. Whether there was an intention to cause death or not admittedly is a matter of evidence. At this stage, considering the investigation is completed and charge-sheet is filed, further incarceration is not required and considering these aspects, the application

deserves to be allowed. Accordingly, I proceed to pass the following order:

(i) The application is allowed.

(ii) The applicant – Ashish Prabhakar Nichat in connection with Crime No.32/2024 registered with Police Station Frezarpura, Amravati for the offence punishable under Sections 294, 302, 307, 323, 326 and 201 read with Section 34 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 attend the proceeding before the trial Court regularly without seeking any exemption unless there are exceptional circumstances.

(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.)