



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

CRIMINAL APPLICATION (BA) NO.631 OF 2024

Sanjay s/o Suryaprakash Uikey

Vs.

State of Maharashtra, Through Police Station Officer, Police Station,
Kalamna Nagpur, District Nagpur

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

Court's or Judge's orders

Ms. S. S. Kulkarni, Counsel for applicant.
Mr. N. B. Jawade, APP for non-applicant /State.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 20/08/2024

1. The applicant came to be arrested on 19.12.2023 in connection with Crime No.1001/2023 registered with Police Station, Kalamna, District Nagpur for the offences punishable under Sections 302 and 324 read with Section 34 of the Indian Penal Code.

2. The crime is registered on the basis of report lodged by one Asharfilal Nirmal alleging that he is working as a truck driver and well acquainted with Amit Ajgar and at about 11.00 p.m. on 18.12.2023, he was chit-chatting with his friends at Pan kiosk. Thereafter, while attending the nature's call, he heard the sound of Amit Ajgar. He immediately rushed towards him and saw that 3 to 4 persons were fighting with said Amit Ajgar. The

informant intervened in the quarrel however, two persons attacked him. It was further alleged that one of them i.e. co-accused Abhijeet Hetram Turkar has given a blow of wooden rafter on the head of the deceased. In the said incident, the informant has also sustained the injury towards his left eye. On the basis of the said report, police have registered the crime against the present applicant as well as the other co-accused. All the co-accused and present applicant was arrested on the spot itself.

3. Heard learned Counsel for the applicant who submitted that as far as the role of the present applicant is concerned, no specific role is attributed to him and no overt act is there though his presence was noted by the eyewitnesses as well as the informant. The entire investigation papers nowhere reveals that though the applicant was holding the weapon in his hand, has given any blow on the person of deceased or the informant. She submitted that the postmortem report also shows one injury on the head of the deceased which is attributable to the co-accused Abhijeet Turkar. As far as present applicant is concerned, he has not caused any injury which resulted into the death of the deceased. The death of the deceased is caused due to head injury which was attributable to the co-accused. Now the investigation is already completed and chargesheet is filed, further incarceration of the present applicant is

not required. In view of that, the applicant be released on bail.

4. Learned APP strongly opposed the said application and submitted that in furtherance of the common intention all the co-accused came at the spot holding weapons in their hands, out of them one accused i.e. Abhijeet Turkar has given a blow of wooden rafter, due to which death of the deceased is caused. Considering the common intention of the present applicant to eliminate the deceased, the application deserves to be rejected.

5. After hearing the learned Counsel for the applicant and learned APP for the State, perused the recitals of the FIR as well as various statements of the eyewitnesses, postmortem report. From the postmortem report, it reveals that the deceased has sustained one injury on his head which is to the fatal and the death of the deceased is caused due to the head injury. As far as the injury sustained by the deceased is concerned, it was attributable to the co-accused Abhijeet Turkar. The statement of the eyewitnesses and the informant also shows that it was the co-accused Abhijeet Turkar who has given a blow of wooden rafter on the head of the deceased and the deceased succumbed to the death. As the informant intervened in the quarrel, he has also received the injury i.e. also attributable to the Abhijeet Turkar. Thus, except the presence of the

present applicant, no more act is attributed to him. Now, the investigation is already completed and chargesheet is filed, further incarceration of the present applicant is not required. In view of that the application deserves to be allowed by imposing certain conditions. Accordingly, I proceed to pass following order:

ORDER

- (i) The application is allowed.
- (ii) The applicant **Sanjay s/o Suryaprakash Uikey** shall be released on bail in connection with Crime No.1001/2023 registered with Police Station, Kalamna, District Nagpur for the offences punishable under Sections 302 and 324 read with Section 34 of the Indian Penal Code, on executing PR Bond in the sum of Rs.50,000/- with one solvent surety of the like amount.
- (iii) The applicant shall attend the concerned Police Station twice in a month on 1st and 15th of every month and the Investigating Officer shall record his presence.
- (iv) The applicant shall not leave the jurisdiction of the Nagpur District Court without prior permission of the Court, till culmination of the trial.
- (v) The applicant shall not induce, threat or promise any witnesses who are acquainted with the facts of the case.
- (vi) The applicant shall attend the proceeding before the Sessions Court without

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seeking any exemption unless there are exceptional circumstances.

6. The application is disposed of.

(URMILA JOSHI-PHALKE, J.)

Sarkate