



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

CRIMINAL APPLICATION (BA) NO.656 OF 2024

Pritram s/o Bhaktu Dhakate

Vs.

State of Maharashtra, Through Police Station Officer, Korchi,
District Gadchiroli

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

Court's or Judge's orders

Mr. I. K. Daudasare, Counsel for the applicant.

Mr. N. B. Jawade, APP for non-applicant /State.

CORAM : URMILA JOSHI-PHALKE, J.

DATED : 06/09/2024

1. The applicant came to be arrested on 17.07.2023 in connection with Crime No.64/2023 registered with Police Station, Korchi, District Gadchiroli for the offences punishable under Sections 302, 326 and 506 of the Indian Penal Code.

2. The crime is registered on the basis of report lodged by Shyambai Sanjay Devangan alleging that on 02.07.2023 at about 9.00 'O' Clock, the deceased along with the other lady of same village went to the forest for collecting some firewood and when they were returning at around 1.30 'O' Clock adjacent to the plantation, the accused came towards the deceased by holding axe in his hand and by stating that she has lodged complaint against him and gave a blow of that axe on the head of the deceased. Due to which, she has sustained the

injuries. After the incident, the deceased attempted to ran away towards the forest in order to save herself but due to the injuries she succumbed to the death. On the basis of the said report, police have registered the crime against the present applicant.

3. Learned Counsel for the applicant submitted that due to the matrimonial dispute, the FIR is lodged against the present applicant. He submitted that as far as the investigation part is concerned, which is already completed, now the charge-sheet is filed. The applicant is having old parents and there is nobody to look after them.

4. He further submitted that the applicant is also suffering from the paralysis and therefore, he needs a special care therefore, the applicant be released on bail. He submitted that even considering the investigation papers and the case as it is, there was no intention to cause the death of the deceased, but as she has lodged complaint against the present applicant, the alleged incident appears to have happened. As far as the tampering of the witnesses is concerned, none of the witnesses are residing in the village where the parents of the applicant are residing and they all are residing at Chhattisgarh therefore, the apprehension of tampering of the witnesses is also not in existence. In view of that, the application deserves to be allowed.

5. Learned APP strongly opposed the said application and invited by attention towards the statement of Sanjay Ramesh Devangan and submitted that from the statement itself it reveals that there used to be dispute between deceased and the present applicant, present applicant used to quarrel with the deceased, initially also there was an apprehension of death at the hands of the present applicant, therefore, he taken the deceased as well as his brother-in-law along with him to stay at this house. Thus, he submitted that there was consistently apprehension of death to the deceased and finally the applicant has given a blow by the axe on her head which is vital part and eliminated the deceased. Thus, considering the material collected during the investigation, *prima facie* case is made out, the gravity of the offence is to be looked into. As far as the medical ground is concerned, he submitted that the report received from the Superintendent, District Prison, Chandrapur which shows that the applicant is having mild weakness in his leg and he can stand and work properly. As far as the treatment through Orthopedic is concerned, the Jail Authorities are providing him the said treatment. Thus, the health of the applicant is not such that he requires a special treatment and therefore, the application on the medical ground also not sustainable, in view of that the application deserves to be rejected.

6. After hearing the learned Counsel for the applicant and learned APP for the State, perused the investigation papers. The applicant has preferred this application on medical ground as well as on merits also. As far as the medical ground is concerned, it reveals from the medical report received from the District Prison, Chandrapur that the applicant had paralysis attack but now his health is stable. He is only having mild weakness in the leg. The report is specially shows that patient is stable and no history of H.T. and D.M. and he only needs the Orthopedic treatment which he is getting in the jail.

7. Coming to the merits of the case, it reveals that there was a matrimonial dispute between the deceased and the present applicant, who is husband. As there was consistently apprehension at the hands of the present applicant, therefore, the son-in-law of the present applicant took victim and son of the present applicant to stay along with him. Thereafter, also when the deceased had been to collect the firewood, the present applicant intercepted her and assaulted her by giving a blow of axe on the vital part of the body i.e. on the head, due to which, she sustained the head injury and succumbed to the death. The postmortem report shows the one injury is found on the head, and there are internal injuries. The force of the injury can be ascertained from the internal injuries sustained by the deceased which shows that deceased has fracture of occipital bone

approximately 2.5 X 1 cm. wide as well as haemorrhage extending from both vertex till base of the brain. It shows the force used by the present applicant by giving a blow of axe on the head of the deceased. The statements of the witnesses and postmortem report shows the *prima facie* case against the present applicant. Considering the nature of offence, which is serious one, for which punishment provided up to the life imprisonment. In view of that, the application deserves to be rejected. Accordingly, I proceed to pass following order.

The application is rejected.

(URMILA JOSHI-PHALKE, J.)