



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

CRIMINAL APPLICATION (BA) NO.657 OF 2024
(Gajanan s/o Eknath Narokar 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. Y.P. Bage, Advocate for the applicant.
Mr. N.B. Jawade, APP for the State.

CORAM:- URMILA JOSHI-PHALKE, J.
DATED :- AUGUST 26, 2024.

By this application, the applicant is seeking bail in connection with Crime No.112/2021 registered with police station Yeoda, District Amravati for offences punishable under Sections 302 read with Section 34 of the Indian Penal Code.

2. The applicant came to be arrested on 06/05/2021 and since then he is behind bar.

3. The crime is registered on the basis of report lodged by Shivaji Sudhakar Sapkal who is the brother of the deceased on an allegation that his brother deceased was residing separately at Kholapur. On 05/05/2021 at about 10:00 PM when after dinner he was sitting in Hanuman temple at the relevant time he witnessed that there were quarrel between the deceased and one Jagannath Damodar Narokar. At the relevant time, the nephew of said Narokar also came there and pelted the brick on the head of the deceased. It is further alleged that

the present applicant has also pelted 5 to 6 bricks on the person of the deceased which hit the deceased and deceased sustained the grievous injuries and died. The death of the deceased is caused due to the head injury. On the basis of said report, police have registered the crime against the present applicant. Initially, the present applicant has filed an application for grant of bail. On showing disinclination, learned Counsel for the applicant withdraw the same and liberty was granted if there is no substantial progress in the trial. After completion of the investigation, the charge-sheet was filed against the present applicant on 29/07/2021.

4. Learned Counsel for the applicant submitted that liberty was granted to the present applicant to move for grant of bail if there is no substantial progress in the trial in near future. Within two years, there is no progress in the trial and the applicant is behind bar. Thus, there is inordinate delay in trial and liberty of the present applicant is curtailed as he is behind bar. He submitted that as far as the merits of the matter is concerned in a sudden fight and sudden quarrel, in the incident the deceased has sustained the injuries and succumbed to the death. The applicant cannot be kept behind bar for an indefinite period. In view of that, he be released on bail.

5. Learned APP strongly opposed the said application and submitted that during the investigation the statement of the various eye-witnesses are recorded

which clearly stated the role of the present applicant. Thus, *prima facie* case is made out against the present applicant. It reveals from the statement that the applicant was suspecting that the deceased had uprise the police about his illicit liquor business which was closed by the police, and therefore, keeping the grudge in the mind he has assaulted the deceased and the death of the deceased is caused. He submitted that as far as the delayed trial is concerned initially accused Nos.2 and 3 were released on bail. After releasing on bail, they remained absent, and therefore, trial is not commenced as charge could not be framed due to their absence. By issuing the warrant against them, their presence was secured and thereafter the charge was framed. After framing of the charge the PW-1 was put in the witness box however, on the request of the learned Counsel for the present applicant the cross-examination was not conducted and still the PW-1 is under the cross-examination of the defence Counsel. Thus, it is not the prosecution who has delayed the trial but it was the accused on whose part there was no cooperation, and therefore, trial was not concluded. In view of that, the application deserves to be rejected.

6. I have heard learned Counsel for both the parties. Perused the entire investigation papers from which it reveals that as far as the role of the present applicant is concerned which revealed from the various statements of the witnesses. The informant is also one of the eye-witnesses. The death of the deceased is caused

due to the head injury. It reveals from the statements of the witnesses that the applicant was suspecting that the deceased has informed the police about his illicit liquor business and the police have closed the said illicit liquor business, therefore, there was dispute between the deceased and the present applicant. On that count, the deceased was assaulted by the present applicant and the other co-accused. After completion of the investigation, the Investigating Officer has filed a charge-sheet on 29/07/2021 thereafter case was committed to the Court of Sessions on 20/08/2021. Thereafter the charge was framed on 27/06/2022. From the rojnama it reveals that charge could not be framed prior to that as the accused number Nos.2 and 3 who were on bail were not attending the proceeding before the trial Court therefore, the non-bailable warrant was issued against them and by executing the warrant their presence was secured and thereafter the charge was framed. Subsequent to the framing of the charge also the witness summons were issued and the accused was not produced on various occasions as well as there was absence of the accused Nos.2 and 3, and therefore, trial was not proceeded. Finally the complainant was examined and his chief examination was recorded on 05/03/2024. Thereafter the accused sought time for conducting the cross-examination, and therefore, trial is not proceeded. Thus, considering the entire rojnama which is produced before the Court it reveals that due to the non-cooperation on the part of the

accused, the trial was not commenced and subsequently, after recording the chief examination also it was the learned Counsel of the accused who sought the time, and therefore, after attending the Court twice or thrice the complainant remained absent, and therefore, the summons was issued to secure the presence of the complainant. Thus, it reveals that as the repeated adjournment applications are filed on behalf of the accused, the trial was not proceeded, and therefore, the complainant has also fed up by attending the Court, and therefore, subsequently he has not attended the Court. Hence, there was no progress in the trial. For this conduct, the prosecution cannot be blamed for. In view of that, the ground raised by the applicant that there is inordinate delay in conclusion of the trial will not assist him for releasing him on bail. In the above circumstances, the application deserves to be rejected.

7. Hence, the application is rejected accordingly.

(URMILA JOSHI-PHALKE, J.)