



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

CRIMINAL APPLICATION (ABA) NO.543 OF 2024
(Kavita w/o Ulhas Jadhao and others Vs. The 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. B. T. Parwe, Advocate for applicant.
Mr. A.J. Gohokar, APP for the State.
Mr. P.M. Pande, Advocate for Assist to Prosecution.

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

By this application, the applicants are seeking pre-arrest bail in connection with Crime No.165/2024 registered with Police Station Ansing, District Washim for the offences punishable under Sections 143, 147, 148, 302, 323, 324, 504 and 506 read with Section 149 of the Indian Penal Code.

2. The accusation against the present applicants is on the basis of report lodged by Janardhan Chavan on an allegation that one of them has caught hold the brother of the informant and other applicants have assaulted him by fists and kick blows. It is further alleged that the co-accused Dhiraj has given a blow of spade on the head of the brother of the informant. On the basis of the said report, police have registered the crime against the present applicants.

3. Learned Counsel for the applicants submitted that regarding the said incident, the cross-complaints are filed against each other regarding the said incident. Thus,

in a free fight the death of the deceased is caused. He submitted that as far as the applicants are concerned, it is only alleged that they have assaulted the brother of the informant by fist and kick blows. Thus, the vital role attributed to the co-accused who is already arrested. In view of that, the applicants be released on bail. In support of his contention, he placed reliance on various orders passed by this Court and the Hon'ble Apex Court which is as under :

- (i) *Sanjay Murlidhar Kadnor and ors. Vs. State of Maharashtra [2021 SCC OnLine Bom 6558]*
- (ii) *Mohan Sattu Chandane and ors. Vs. State of Maharashtra [2021 SCC OnLine Bom 6643]*
- (iii) *Digambar Bhau Dhule Vs. State of Maharashtra [2021 SCC OnLine Bom 6650]*
- (iv) *Vijay Ramrao Satav and ors. Vs. State of Maharashtra [2016 SCC OnLine Bom 6412] and*
- (v) *Kamaljit Singh Vs. State of Punjab and anr. [2006 AIR SCW 4723]*

4. *Per contra*, learned APP and learned Counsel for the informant strongly opposed the said application and submitted that all the applicants in furtherance of their common object, formed the unlawful assembly and assaulted the deceased which resulted into his death. The death of the deceased is caused due to head injury. Admittedly, the head injury is attributed to the other co-accused however, the internal injuries sustained by the deceased sufficiently shows that as the deceased was assaulted by fist and kick blows he has sustained the

grievous injuries and the injuries caused by the other co-accused proves to be fatal. Thus, considering it was the common act of all the applicants, the death of the deceased is caused. In view of that, the application deserves to be rejected.

5. I have heard learned Counsel for both the parties. Perused the recitals of the FIR as well as the statements of the various witnesses from which it reveals that as far as the applicant No.1 and applicant No.6 are concerned, general allegations are made against them. As far as the other applicants are concerned their involvement reveals from the investigation papers that the various statements of the witnesses which shows that they have played the vital role i.e. the assault on the deceased. The statements of the eye-witnesses specifically attributes the role to the applicants excluding applicant Nos.1 and applicant No.6 which shows that all these applicants excluding applicant Nos.1 and 6 assaulted the deceased by means of fists and kick blows due to which the deceased has sustained the injuries. The postmortem report further shows that the deceased has sustained in all 9 injuries on his person. The internal injuries are sustained by him on head and as per the opinion of the doctor, injury mentioned in column No.17 having corresponding injuries in column No.19 is individually sufficient in the ordinary course to cause death. Though the injuries sustained by the deceased at the hands of the applicants excluding applicant Nos.1 and 6 not directly caused the death of the

deceased however, they have contributed to assist the other co-accused to cause the death of the deceased. Thus, considering that all the applicants excluding applicant Nos.1 and 6 came at the spot by preparing themselves holding weapon in their hand and one of the co-accused has used the weapon and caused the death of the deceased. The *prima facie* case is made out against the applicants excluding applicant Nos.1 and 6. As far as anticipatory bail is concerned the considerations for grant of anticipatory bail are that the gravity of the offence, severity of the punishment whether the applicants are at a flight risk and the nature and circumstances under which the offence is committed. Thus, it appears that due to previous enmity all the applicants excluding applicant Nos.1 and 6 entered at the spot by preparing themselves, assaulted the deceased and one of the co-accused has used the spade and gave a blow which proved to be fatal. Thus, considering the entire circumstances on record, except applicant Nos.1 and 6 the *prima facie* case is made out against the other applicants. In view of that, the application for grant of anticipatory bail of applicant Nos.2 to 5 deserves to be rejected. Accordingly, I proceed to pass the following order :

- (i) The application is partly allowed.
- (ii) The prayer of applicant Nos.2 to 5 for grant of anticipatory bail is hereby rejected.

(iii) In the event of the arrest, the applicant No.1 – Kavita w/o Ulhas Jadhao and applicant No.6 – Gangabai @ Sangita Rajusing Jadhav in connection with Crime No.165/2024 registered with Police Station Ansing, District Washim for the offences punishable under Sections 143, 147, 148, 302, 323, 324, 504 and 506 read with Section 149 of the Indian Penal Code, be released on anticipatory bail on executing PR. bond in the sum of Rs.25,000/- each with one surety each in the like amount.

(iv) Applicant Nos.1 and 6 shall remain present before the Investigating Officer as and when required for the investigation purpose and shall cooperate with the investigating agency.

(v) Applicant Nos.1 and 6 shall not enter into the vicinity of village Shirputi, Taluka and District Washim till the culmination of the trial.

(vi) Applicant Nos.1 and 6 shall not induce, threat or promise any witnesses in any manner who are acquainted with the facts of the case.

6. The application is disposed of.

(URMILA JOSHI-PHALKE, J.)