



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

CRIMINAL APPLICATION (BA) NO. 729 OF 2024

Sumitsingh Udaysingh Parihar 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. A.M. Jaltare, counsel for applicant.

Mr. A.V. Palishikar, APP for non-applicant/State.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 23/09/2024.

1. By this application, the applicant is seeking bail under Section 483 of the Bhartiya Nagrik Suraksha Sanhita, in connection with Crime No. 29/2023 registered with Police Station Arjuni Morgaon, District Gondia for the offences punishable under Sections 143, 147, 148, 302, 326, 504, 506, read with Section 149 of the Indian Penal Code, 1860 and Sections 37(1)(3), 135 of the Maharashtra Police Act, The applicant came to be arrested on 14/02/2023 since then he is in jail.

2. Learned counsel, Mr. A.M. Jaltare for the applicant, submitted that the applicant is arrested as crime is registered against him and other accused on an accusation by Ramdas Keshav Maske that there was a previous dispute between the applicant and other co-accused and the informant on account of agricultural land bearing No. 1055 in Mahagaon District. On 14/02/2023, at about 8.30 a.m., when he and his son Vilas were working in the agricultural field, the present

applicant, along with other co-accused holding swords and an iron rod in their hands, entered the field. There was a hot exchange of words between the present applicant and the informant, and the other co-accused asked them whether the land belongs to them and why they were cultivating the land. Thereafter, all the accused started assaulting them at the deceased, and the informants were scared, and they started running. The present applicant and the co-accused chased them and assaulted them, in which the death of the deceased Vilas was caused, and the informant, Ramdas, has sustained the grievous injuries. It is alleged that the deceased was assaulted by the present applicant and other co-accused. On the basis of the same, the police have registered the crime against the present applicant and other co-accused.

3. Learned counsel Mr. A.M. Jaltare further submitted that there was a previous dispute between the parties on account of the agricultural field. As far as the present applicant and other co-accused are concerned, they are the owners of the agricultural land, and the informant and his son were the aggressors. He pointed out from the various statements that there are inconsistent statements as far as the role of the present applicant is concerned. He submitted that in the initial statement, the eyewitness-Ramdas, who is injured in the incident, stated that the present applicant was holding an iron rod and assaulted the deceased by means of an iron rod. In the subsequent statement recorded under Section 164 of Cr.P.C., he has changed his version and attributed the role to the present applicant by saying that he

has assaulted the deceased by means of a sword. As far as the injury by sword is concerned, only one injury is on the head of the deceased, which is by sword and which is attributed to the co-accused, Jitendra. He submitted that with the similar role, the co-accused-Abhisheksingh Satyapalsingh Pawar, is already released on bail by this Court. Considering the inconsistent statement and as far as the role of the present applicant is concerned, now the investigation is completed and charge-sheet is filed, his further incarceration is not required, in view of that, he be released on bail.

4. Per contra, learned APP strongly opposed the said application on the ground that, considering the gravity of the offence that deceased was chased by the co-accused and the present applicant and assaulted him. The deceased has sustained as many as 21 injuries, and the present applicant and the other co-accused, in furtherance of their common object, eliminated the deceased. In view of that, the application deserves to be rejected.

5. After hearing learned counsel for both the parties. Perused the investigation papers, as per the allegation, there is a previous dispute between the informant and the accused persons on account of agricultural land, and also litigation is pending in the Court. Regarding the incident, initially in the FIR he stated that the present applicant has assaulted the deceased and the informant by means of an iron rod. In the subsequent statement of the informant, which is recorded under Section 164, he has attributed the role to the present

applicant by saying that assault by the present applicant is by means of a sword and blow was on the head. The statement of the wife of the deceased and father of the deceased were also recorded, who have also initially attributed the role by saying that assault by the present applicant by iron rod, whereas during the statement under Section 164 of the Cr.P.C., they have changed the version and alleged that the present applicant has assaulted the deceased by means of a sword. The Post Mortem report is perused. There is no dispute that the deceased has sustained as many as 21 injuries on his person. The death of the deceased is due to head injury, which is attributed to the co-accused Jitendra. As far as the present applicant is concerned, against whom the allegation is that he has assaulted by means of an iron rod, and there are various injuries in the nature of abrasion and contusion on the person of the deceased. As far as the injury by sword is concerned, there is only one injury on the head of the deceased, due to which there was a parietal bone fracture, which is attributed to the co-accused. Considering the fact that with similar allegation, the co-accused Abhisheksingh was also arraigned as an accused, who is already released on bail. Now, the investigation is already completed and charge-sheet is already filed, as far as the present applicant is concerned, though his role is in the assault, but as far as the cause of death is concerned, that injury is attributed to the co-accused, Jitendra.

6. Considering the same and considering the fact that

the investigation is now completed, further custody of the present applicant is not required, and no purpose will be served by keeping the applicant behind bar. There are no criminal antecedents against the present applicant. Considering all these aspects, the application deserves to be allowed. Accordingly, I proceed to pass the following order:

- a] The criminal application is allowed.
- b] The applicant – **Sumitsingh s/o Udaysingh Parihar** shall be released on bail, in connection with Crime No. 29/2023 registered with Police Station Arjuni Morgaon, District Gondia for the offence punishable under Sections 302, 326, 504, 506, 143, 147, 148 read with Section 149 of the Indian Penal Code, 1860 and Sections 37(1)(3), 135 of the Maharashtra Police Act, on executing PR. Bond of Rs. 25,000/- with one solvent surety in the like amount.
- c] The applicant shall not enter into the vicinity of village Siroli, Tahsil Arjuni Morgaon, District Gondia, till conclusion of the trial.
- d] The applicant shall not directly or indirectly make any inducement, threat or promise to any witness acquainted with the facts of the present case, so as to dissuade him/her from disclosing such facts to the Court or any Police Officer.
- e] The applicant shall furnish his residential address wherein he is intending to stay after

releasing him on bail, and shall furnish his cellphone number(s) to the investigating officer.

The criminal application stands **disposed of** accordingly.

[URMILA JOSHI-PHALKE, J.]