



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

CRIMINAL APPLICATION (BA) NO. 725 OF 2024

Dnyaneshwar s/o Bhaskar Kale and another **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. Tejas S. Deshpande, counsel with Mr. A.D. Deshmukh, counsel for applicants.
Mrs. H.N. Prabhu, APP for non-applicant/State.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 19/08/2024.

1. The applicants came to be arrested on 27/02/2024, in connection with crime No. 51/2024 registered with Police Station Tamgaon, District Buldhana for the offence punishable under Section 302 read with Section 34 of the Indian Penal Code, 1860.

2. The allegations against the present applicants are based on the report lodged by Pralhad Motiram Deulkar alleging that there was a previous dispute between the present applicants and the co-accused, Nitin Mahadeo Thakare, and the deceased. On 02/02/2024, the deceased was called by the present applicants and was threatened, but the deceased rescued himself, and thereafter, on 26/02/2024, his dead body was found at the road site near the field of Sadashiv Wankhede. He has sustained the head injury, and the death of the deceased is due to head injury. There were injuries on his legs, as well as rope was tied to both the legs. On the basis of the said report, police have

registered the crime against the present applicants and other co-accused.

3. Heard learned counsel for the applicants, who submitted that as far as the applicant no.1 is concerned, he is not pressing the same and liberty be granted to the applicant no.1 to file an application after receipt of Chemical Analyser's report.

4. He submitted that the entire case is based on circumstantial evidence, the only circumstance is that there was an incident on dated 02/02/2024, and prior to this incident, the deceased was restrained by the co-accused, Nitin Mahadeo Thakare, and the present applicants. No other circumstances were brought on record by the investigating officer to connect the present applicants with the alleged offence.

He submitted that, as far as applicant No.2 is concerned, his name is not mentioned in the FIR which is lodged regarding the incident dated 02/02/2024, i.e. crime no. 26/2024. The statements of the witnesses also, nowhere disclosed the name of applicant No. 2. Thus, except the suspicion, there is no other material to connect applicant No.2 with the alleged offence. Hence, he be released on bail.

5. Learned APP strongly opposed the said application and submitted that, admittedly, the entire case is based on circumstantial evidence, but there was a previous dispute between the deceased and the present applicants as well as

the co-accused. The previous complaints were filed by the deceased as well as by the brother of the deceased against the present applicants, as the deceased was threatened by the present applicants. She submitted that the statements of the eye witnesses also disclose the involvement of applicant No.2 in the alleged offence. In view of that, the application deserves to be rejected.

6. After hearing learned counsel for the applicants and learned APP for the State, perused the entire investigation papers, from which it reveals that undisputedly there was a previous dispute between the deceased and the co-accused- Nitin Mahadeo Thakre, and applicant No. 1 i.e. Dnyaneshwar Bhaskar Kale. As far as the present applicant is concerned, his name is not mentioned in the earlier FIR, which was lodged by the deceased against the co-accused bearing No. 26/2024. As far as crime No. 332/2023, wherein the name of the present applicant is mentioned, however, no specific role is attributed to him. He submitted that nothing was recovered at the instance of the present applicants. The stick, which is an alleged weapon, was recovered at the instance of the co-accused. Thus, considering the suspicion that there is no other material, applicant No. 2 has made out the case for grant of bail. Accordingly, I proceed to pass the following order;

- a] The criminal application is partly allowed.
- b] The applicant No.2 – Amol Brahmadeo Mhasal, shall be released on bail, in

connection with crime No. 51/2024 registered with Police Station Tamgaon, District Buldhana for the offence punishable under Section 302 read with Section 34 of the Indian Penal Code, 1860, on executing P.R. Bond of Rs. 25,000/- with one solvent surety of like amount.

- c] The applicant No.2 shall not enter into the vicinity of village Kolad, Tah. Sangrampur, District Buldhana till culmination of the trial.
- d] The applicant shall not induce, threat or promise any witnesses who are acquainted with the facts of the case.
- e] The applicant No.2 shall attend the proceedings before the Sessions Court without seeking any exemptions unless there are exceptional circumstances.
- f] The application as regards applicant No.1 is disposed of as not press. Liberty is granted to applicant No.1 to prefer an application after receipt of Chemical Analyser report.

The criminal application stands **disposed of.**

[URMILA JOSHI-PHALKE, J.]