



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

CRIMINAL APPLICATION (BA) NO.746 OF 2024

(Mukesh Arjun Nagarkar Vs. The State of Maharashtra thr. PSO PS Jaripatka, Nagpur)

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

Court's or Judge's orders.

Mr. R. H. Rawani, Advocate for Applicant.
Ms. R. V. Sharma, APP for Non-Applciant/State.

CORAM: URMILA JOSHI PHALKE, J.

DATE: 5th SEPTEMBER, 2024.

1. Heard.
2. The applicant came to be arrested on 26.12.2023 in connection with Crime No.521/2023 registered with Police Station Jaripatka, Nagpur for the offences punishable under Sections 302, 504, 201 read with Section 34 of the Indian Penal Code and Section 67(a) of the Information and Technology Act.
3. The crime is registered on the basis of the report lodged by Hariom Kamlesh Zariya alleging that deceased Shreyas Shailesh Patil was his friend. On 29.06.2023, he received a call from deceased Shreyas Patil and deceased disclosed to him that he is coming at his house, immediately the informant reached at the house of the deceased at 12:30 p.m. at the relevant time mother of the deceased was also present in the house, after some time they both proceeded towards the NIT garden, at that time three persons came on the Aactiva two wheeler and stopped their vehicle near them and they were communicating with the deceased Shreyas

Patil and during communication they started assaulting the deceased Shreyas Patil. It is alleged that these three persons were wearing red shirt, cream colour shirt having stripes on its and black shirt. As per the allegation the boy who was wearing the black T-shirt has assaulted the deceased by iron pipe and fists and kick blows, whereas out of these three persons, one person removed the knife and gave blow of knife on the chest of the deceased due to which deceased sustained the injuries and subsequently succumbed to the death. On the basis of the said report police have registered the crime against the present applicant.

4. Heard learned counsel for the applicant who submitted that as per the first information report there were only three persons who assaulted the deceased. Subsequently, the statement of the informant was recorded on the next day, wherein he has alleged that three persons came on the Aactiva scooter and one person came on the Pulsar vehicle. The allegation is that there was a dispute between the deceased and the co-accused Pratham on account of having relationship with one girl and due to that there was altercation between them and out of that the deceased was also assaulted by knife. He submitted that even the supplementary statement of the informant nowhere discloses any overt act to the four persons i.e. the present applicant and subsequent to that the statement of the witnesses were recorded wherein it was alleged that the present applicant has also assaulted the deceased. He submitted that as far as the involvement of the present

applicant is concerned neither his blood stains clothes are recovered, no weapon is recovered at his instance, whereas the knife and blood stains clothes are recovered at the instance of Pratham Jambhulkar and blood stains clothes are also recovered at the instance of the child in conflict with law, whereas the weapon and the other blood stains clothes are recovered from the co-accused Amit Meshram and another child in conflict with law. He submitted that considering the entire investigation papers initially the name of the present applicant was not mentioned in the FIR, the informant who was along with the deceased has not disclosed any role to the present applicant even his presence was not earlier stated and in second statement also merely his presence was stated by the informant. Thus, considering the nature of the evidence collected during the investigation, no overt act is attributed to the present applicant. In view of that, considering the investigation is completed, charge-sheet is filed. Further incarceration of the applicant is not required, he be released on bail.

5. The learned APP strongly opposed the said application on the ground that the statements of the some eye witnesses discloses the role of the present applicant also who was not only present but involved in the actual assault. Considering the nature of the crime, application deserves to be rejected.

6. After hearing the learned counsel for the applicant and the learned APP for the State, perused the investigation

papers from which it reveals that initially the FIR was lodged against three persons, the informant who was along with the deceased and the eye witness of the witness has narrated the role of each of the persons who were present at the spot of incident including the two child in conflict with law. The incriminating weapon is also recovered from one Amit Meshram and blood stains clothes are recovered from the co-accused Amit Meshram as well as two child in conflict with law. During investigation the statement of the informant was recorded on 30.06.2023 wherein first time he has referred the four persons but as far as the four persons is concerned no specific role is attributed to him. It is only mentioned that he left the place on his Pulsar. The other eye witnesses are though referred the present applicant and he was involved in the assault but no specific role is attributed to him general specific statement against the present applicant. Considering the fact that no blood stains clothes are recovered at the instance of the present applicant, initially his presence is also not narrated but the informant who is not eye witness but he was all the way along with the deceased. Even considering the allegation as against, as no overt act is attributed to the present applicant and now investigation is completed, charge-sheet is filed. Further incarnation of the present applicant is not required. In view of that, the application deserves to be allowed. Accordingly, I proceed to pass the following order:

- a] The criminal application is allowed.

- b] The applicant – Mukesh Arjun Nagarkar, shall be released on bail in connection with Crime No.521/2023 registered with Police Station Jaripatka, Nagpur for the offences punishable under Sections 302, 504, 201 read with Section 34 of the Indian Penal Code and Section 67(a) of the Information and Technology Act, on executing P.R. bond in the sum of Rs.25,000/- with one solvent surety in the like amount.
- c] The applicant shall not enter into the vicinity of Omnagar, Shivgiri, Near Hanuman Temple, Nagpur within the jurisdiction of Koradi Police Station, Nagpur till culmination of the trial.
- d] The applicant shall not induce, threat or promise to any witnesses who are acquainted with the facts of the present case.
- e] The applicant shall attend the proceedings before the Sessions Court without seeking any exemption, unless there are exceptional circumstances.
- f] The applicant shall not leave the jurisdiction of Nagpur District without

prior permission of the Court.

7. The application is disposed of.

(URMILA JOSHI-PHALKE, J.)

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