



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

CRIMINAL APPLICATION (BA) NO.721 OF 2023

(Rajat s/o Shashikant @ Raju Ramteke 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.P. Tathod, Advocate h/f Mr. Mohd. Amin Mohd. Salim, Advocate
for the applicant.
Mr. S.S. Hulke, APP for the non-applicant/State.

CORAM:- URMILA JOSHI-PHALKE, J.

DATED :- JANUARY 15, 2024

By this application, the applicant is seeking bail in connection with Crime No.610/2022 registered with Police Station Badnera, District Amravati for the offences punishable under Sections 302 read with Section 34 of the Indian Penal Code and Section 4 and 25 of the Arms Act, 1959.

2. The applicant is arrested on 26/07/2022 and since then he is behind bar.

3. The accusation against the present applicant is that the present applicant and other co-accused and the deceased were residing in the same lane and there was a previous quarrel between the present applicant, other co-accused and the deceased. On 26th July, 2022, at about 1.30 p.m. when the deceased was proceeding towards Badnera bus stand, at the relevant time co-accused Avinash @ Dadu Vinod Randhir and the present applicant

came there. The co-accused was holding knife in his hand and gave a blow of knife on the head and the cheek of the deceased whereas the present applicant has assaulted the deceased by means of fists and kick blows. The informant was along with her, she made hue and cry, due to which the people gathered there. On the basis of said report, police have registered the crime against the present applicant.

4. Learned Counsel for the applicant submitted that after two days of the incident, the supplementary statement of the informant is recorded and she attributed the role to the present applicant that he has picked up the stone which was lying at the spot of incident and gave a blow by that stone on the head of the deceased. In fact, there is only one injury on the head of the deceased and the statement is given after two days of the incident. The statement of the other two eye-witnesses are also recorded after two days of the incident. Thus, the subsequent role attributed to the present applicant is after thought after two days of the incident. Now, investigation is completed and charge-sheet is filed. Considering the role of the present applicant, he be released on bail. His further incarceration is not required and no purpose will be served by keeping him behind bar.

5. Learned Additional Public Prosecutor strongly opposed the application on the ground that the injury

caused by the present applicant is reflected in the postmortem report as injury is in the nature of contusion and said injury is not possible by the knife. He further submitted that considering the common intention of both the applicants, the act of the present applicant covers and the intention can be gathered from the circumstances. In view of that, the application deserves to be rejected.

6. I have heard the learned Counsel for the parties. Perused the investigation papers. There is no dispute that initially at the time of lodging the FIR, informant has not narrated that the present applicant assaulted the deceased by means of stone. The statement showing that the present applicant has assaulted the deceased by means of stone is recorded after two days of the incident. The statements of the eye-witnesses are also after two days of the incident. As per the allegation, the co-accused has also given a blow by means of knife on the head of the deceased and present applicant has also given the blow by means of stone on the head of the deceased. Postmortem report shows only one injury on the head of the deceased. Considering that initially there was no allegation that the present applicant has assaulted the deceased by means of stone and after two days of the incident, this role is attributed to the present applicant and the statements of the eye-witnesses are also recorded after two days of the incident. The stone is already recovered which is not having any blood stains. The

clothes of the present applicant are also seized having not blood stains on it. Considering the nature of the evidence which is collected against the present applicant which initially only shows the role of the present applicant that he assaulted by means of fists and kick blows. Now, the investigation is completed and charge-sheet is filed. Further incarceration of the present applicant is not required. In view of that application deserves to be allowed. Accordingly, I proceed to pass the following order:

(i) The application is allowed.

(ii) The applicant - Rajat s/o Shashikant @ Raju Ramteke in connection with Crime No.610/2022 registered with Police Station Badnera, District Amravati for the offences punishable under Sections 302 read with Section 34 of the Indian Penal Code and Section 4 and 25 of the Arms Act, 1959, be released on bail on furnishing P.R. bond in the sum of Rs.25,000/- with one solvent surety in the like amount.

(iii) The applicant shall attend the concerned police station once in a month i.e. first day of every month till culmination of the trial.

(iv) The applicant shall not leave the jurisdiction of the Amravati district without prior permission of the Court.

(v) The applicant shall furnish his cell phone number and address with the address proof.

(vi) The applicant shall not directly or indirectly make any inducement and threat or promise to any person acquainted with the facts of the present case.

7. The application is disposed of.

(URMILA JOSHI-PHALKE, J.)

**Divya*