



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

CRIMINAL APPLICATION (BA) NO.761 OF 2024

(Pranay s/o Gautam Sardar 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. P.M. Ukey, Advocate for the applicant.
Mr. M.A. Barabde, APP for the State.

CORAM:- URMILA JOSHI-PHALKE, J.
DATED :- SEPTEMBER 12, 2024.

The applicant came to be arrested on 05/02/2024 in connection with Crime No.33/2024 registered with Police Station Wathoda, Nagpur for the offence punishable under Sections 302 read with Section 34 of the Indian penal Code, Sections 4 and 25 of the Arms Act, 1959 and Section 135 of the Maharashtra Police Act.

2. The crime is registered on the basis of report lodged by the father of the deceased on an allegation that he owns the Pan Shop. On 04/02/2024, he was on the Pan Shop for whole day and thereafter in the evening deceased was looking after the said Pan shop who is his son, and therefore, he came to house. During the night, the deceased did not come to the house, therefore, on the next day when he came to know he searched for the deceased and dead body of the deceased was found. There were severe injuries on the person of the deceased. On the

basis of the said report, police have registered the crime against the present applicant and other co-accused.

3. During investigation, it revealed to the investigating agency that there was a previous quarrel between the present applicant and co-accused on account of they were suspects in a battery theft case and on that count they have threatened the deceased. During investigation, the co-accused and the present applicant were arrested and they gave the memorandum statement. At their instance the incriminating weapon of the offence were discovered and seized. The statements of the witnesses also recorded from which it reveals that on earlier night presence of the present applicant and other co-accused was noted near the Pan shop. On the basis of the same, the investigation is completed and charge-sheet is filed.

4. Learned Counsel for the applicant submitted that entire case is rested on the circumstantial evidence. As far as the circumstances on which the prosecution relied upon are not sufficient to connect the present applicant with the alleged offence. Now, the investigation is completed, charge-sheet is filed, further incarceration of the present applicant is not required. In view of that, he be released on bail.

5. Learned APP strongly opposed the application on the ground that the circumstance that weapons are

discovered at the instance of the present applicant as well as the co-accused, the presence of the present applicant and other co-accused was noted on earlier night near the Pan shop. The location i.e. CDR report and SDR report also substantiate the same and the previous enmity between the present applicant and the deceased sufficiently shows his involvement in the alleged offence. Though investigation is completed and charge-sheet is filed but considering the gravity of the offence, the application deserves to be rejected.

6. I have heard learned Counsel for both the parties. Perused the investigation papers from which it reveals that there was a previous enmity between the deceased and the present applicant and the other co-accused Sumit on account of the fact that the present applicant and other co-accused was allegedly committed the theft of battery and the deceased has suspected about their involvement in the theft of the said battery. The another circumstance on which the prosecution relied upon is the previous quarrel between the deceased and the present applicant on account of theft of the said battery. The circumstance that the presence of the present applicant and other co-accused was noted by the witnesses on the earlier night near the Pan shop of the deceased and the discovery of the weapons at the instance of the present applicant sufficiently shows his involvement at this stage.

7. Considering the *prima facie* case made out against the present applicant and the manner in which deceased was eliminated who is having 10 injuries on his person, the application deserves to be rejected.

8. Hence, the application is rejected accordingly.

(URMILA JOSHI-PHALKE, J.)

**Divya*