



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

CRIMINAL APPLICATION (BA) NO.772 OF 2024

Vishal @ Lambu s/o Nandlal Bisen
Vs.

State of Maharashtra, Through Police Station Officer, Kalamna, Nagpur

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

Court's or Judge's orders

Mr. C. B. Barve, Counsel for the applicant.
Mr. K. R. Lule, APP for non-applicant /State.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 07/10/2024

1. The applicant came to be arrested on 09.01.2023 in connection with Crime No.10/2023 registered with Police Station, Kalamna, District Nagpur for the offences punishable under Sections 302, 307, 279, 427, 323 read with Section 34 of the Indian Penal Code and under Section 135 of the Maharashtra Police Act and Section 3(1), 181, 184 of the Motor Vehicles Act.

2. The crime is registered on the basis of report lodged by Khushal Ramesh Devangal on an allegation that on 08.01.2023, he along with his friends i.e. deceased Laxminarayan @ Ajay Chandani, Shyam Ashok Devangal and Devendra Pritam Devangal proceeded towards the Kamathi Nagpur for attending one engagement ceremony. As they were not knowing the actual venue of the said ceremony, they were standing by the side of the road, at that

time, one two-wheeler came wherein two boys were travelling one was wearing red colour shirt and the pillion rider was wearing black T-shirt. There was hot exchange of words between them as the said motorcycle dashed the vehicle of the deceased and during the hot exchange of words, the other two persons came at the spot. One was wearing red shirt and another was wearing black shirt. The person who was wearing the red shirt has given a blow of knife on the person of the deceased, which was in his pocket. Due to this blow, the deceased has sustained the grievous injuries and succumbed to the death. On the basis of the said report, police have registered the crime against the present applicant.

3. Learned Counsel for the applicant submitted that as far as the present applicant is concerned, which a pillion rider, only role attributed to him is that, at the time of giving a blow, he was holding the deceased and thereafter, the co-accused has given the blow on the person of the deceased. He submitted that now the investigation is completed. As far as the role of the present applicant is concerned, which is only to the extent of holding the person to whom the blow was given. He invited my attention towards the seizure of the clothes panchnama and submitted that the description which is mentioned by the informant and the clothes which are seized as the clothes of the accused the description does not match. He further

invited my attention towards the arrest panchnama and submitted that the description given by the eye witnesses has also does not match with the description of the present applicant, though the present applicant was identified during the test identification parade. Thus, considering all these aspects, the applicant be released on bail as the entire incident occurred during the sudden fight and sudden quarrel between the applicant, informant and the other eye witnesses.

4. Learned APP strongly opposed the said application and submitted that not only the eye witnesses, but the test identification parade shows the involvement of the present applicant in the alleged incident. The vital role is played by the present applicant of holding the deceased due to which, the other co-accused given the knife blow on the person of the deceased. Thus, considering the role of the present applicant, the bail application deserves to be rejected.

5. Having heard the learned Counsel for the applicant and learned APP for the State, perused the investigation papers, from which it reveals that due to the dash of the vehicle of the co-accused to the vehicle of the deceased, the scuffle started between them and during that scuffle, the present applicant hold the deceased and other co-accused gave a blow of knife on the person of the deceased. As far as the injuries on the person of the deceased are concerned,

there were two stab injuries and the other four injuries are in the nature of the abrasion and lacerated wound. The cause of the death of the deceased is injury to the vital role. The statements of the eye witnesses are also recorded during the investigation, which shows that the role attributed to the present applicant is only to the extent of holding the deceased. Whether the applicant was having knowledge that the other co-accused was carrying the knife with him and was having intention to eliminate the deceased is a matter of trial. At this stage, considering the role of the present applicant and considering the fact that the investigation is already completed and charge-sheet is filed, further incarceration of the present applicant is not required. In view of that, the application deserves to be allowed. Accordingly, I proceed to pass following order:

ORDER

- (i) The application is allowed.
- (ii) The applicant **Vishal @ Lambu s/o Nandlal Bisen** shall be released on bail in connection with Crime No.10/2023 registered with Police Station, Kalamna, District Nagpur for the offences punishable under Sections 302, 307, 279, 427, 323 read with Section 34 of the Indian Penal Code and under Section 135 of the Maharashtra Police Act and Section 3(1), 181 and 184 of the Motor Vehicles Act, on executing PR Bond in the sum of Rs.25,000/- with one solvent surety in the like amount.
- (iii) The applicant shall not enter into the

jurisdiction of Kalamna Police Station, till culmination of the trial.

(iv) The applicant shall not induce, threat of promise any witnesses who are acquainted with the facts of the case.

(v) The applicant shall not leave the jurisdiction of Nagpur District without prior permission of the District Court, Nagpur.

(vi) The applicant shall attend the proceeding before the trial Court without seeking any exemption unless there are exceptional circumstances.

6. The application is disposed of.

(URMILA JOSHI-PHALKE, J.)