



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

CRIMINAL APPLICATION (BA) NO. 765 OF 2024

Rahul Ganesh Tayde 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. R.M. Daga, counsel for applicants.

Mrs. M.A.Barbde, APP for non-applicant/State.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 03/09/2024.

1. The applicants came to be arrested on 02/01/2024 in connection with Crime No. 02/2024 registered with police station, Civil Lines, Akola for the offence punishable under Section 302 read with Section 34 of the Indian Penal Code, 1860.

2. The crime is registered on the basis of report lodged by Madhukar Devidas Zate, on an allegation that on 01/01/2024, when he returned home from an agricultural field, he received the information that his son had sustained the injuries and was admitted in the hospital; thereafter, he immediately rushed to the hospital, and it informed him that injured died as somebody had given him a blow of a knife on his abdomen. He lodged a report against the unknown person. During the investigation, the investigating officer has recorded the statement of the eye-witnesses, from which it reveals that the co-accused Sahil has given a blow of knife on the abdomen of the deceased, and the present applicants have hold him at the relevant

time. On the basis of the said statement, the crime was registered against the present applicants.

3. Heard Mr. R.M. Daga, learned counsel for the applicants, submitted that as far as the injury sustained by the deceased is concerned, he has sustained the ten injuries on the person of the deceased, and the death of the deceased is due to the hemorrhagic and shock due to a stab injury over the abdomen involving celiac trunk (artery). He submitted that even the statement of the eye witness shows that the deceased has disclosed that he was assaulted by co-accused/Sahil. Now, investigation is already completed and charge-sheet is filed, further incarceration of the present applicant is not required. In view of that, applicants be released on bail.

4. Learned APP strongly opposed the said application on the ground that the deceased has sustained the injury on the vital part of the body, and the present applicants have played a vital role as they caught hold of the deceased, and therefore, the co-accused executed his act, i.e., giving the blow on the abdominal portion, which is a vital portion. Though the investigation is completed, there is apprehension of tampering of the witnesses. In view of that, the application deserves to be rejected.

5. After hearing learned counsel for the applicant and learned APP for the State, perused the investigation papers from which it reveals that the deceased has sustained a penetrating incised stab wound of size 4cm x 2cm x cavity

deep present over the junction of epigastric and right hypochondrium region, present 32 cm below the sternal notch and 3 cm from the midline, placed obliquely with lateral angle obtuse and medial angle acute, margins clean cut, and blood infiltrated, with evidence of protrusion of subcutaneous fat and soft tissue. The other injuries that injury Nos. 2, 3 and 4 are the corresponding injuries on the abdominal portion of the deceased as well as at the joint of the ring figure of the left hand. Injury Nos. 5 to 10 are the postmortem injuries. On perusal of the statements of the eye witnesses, it reveals that the vital part attributed to the co-accused/Sahil, as far as present applicants are concerned, whether they were aware about the intention of the co-accused is not is a matter of evidence. At this stage, considering the role attributed to the present applicants, admittedly they have not caused the death of the deceased by giving any blow by any weapon. Now, investigation is already completed and charge-sheet is already filed, further incarceration of the present applicants is not required. In view of that, the application deserves to be allowed. Accordingly, I proceed to pass the following order:

- a] The application is allowed.
- b] The applicants - (1) *Rahul Ganesh Tayde* (2) *Mangal Babulal Chavhan* shall be released on bail, in connection with Crime No. 02/2024 registered with police station,

Civil Lines, Akola 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/- each with one solvent surety in the like amount.

- c] The applicants shall not enter into the vicinity of village Taroda, Tah. Jalgaon Jamod, District Buldhana till culmination of the trial.
- d] The applicants shall attend the proceedings before the Sessions Court without seeking any exemptions unless there are exceptional circumstances.
- e] The applicants shall furnish their cellphone number(s) and address where they are intending to reside after they are released on bail along with address proof.
- f] The applicants shall not leave the jurisdiction of the Akola City without prior permission of the Court.

The criminal application is **disposed of**.

[URMILA JOSHI-PHALKE, J.]