



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

CRIMINAL APPLICATION (BA) NO.764 OF 2024

Pravin s/o Ashok Uparwat

Vs.

State of Maharashtra, Through Police Station Officer, Police Station, Patur,
District Akola

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

Court's or Judge's orders

Mr. S. V. Sirpurkar, Counsel for applicant.

Mr. A. V. Palshikar, APP for non-applicant /State.

CORAM : URMILA JOSHI-PHALKE, J.

DATED : 24/09/2024

1. The applicant came to be arrested on 26.12.2023 in connection with Crime No.558/2023 which was initially registered under Sections 323, 326, 504 read with Section 34 of the Indian Penal Code and subsequently converted into 302 of the Indian Penal Code.

2. As per the accusation, there was a previous enmity between the family members of the present applicant and the informant, as the granddaughter of the informant was kidnapped by the son of the cousin brother and since there was a dispute between them. On 26.12.2023, the quarrel was started on the above said count and it is alleged that in that scuffle present applicant and other co-accused namely Milind caught hold the deceased from the back side and co-accused Parmeshwar given

a blow of iron pipe on his head, due to which deceased has sustained a grievous injuries and while taking treatment, he succumbed to the death.

3. Learned Counsel Mr. Sirpurkar for the applicant submitted that as far as the presence of the present applicant is concerned, and the role attributed to him is only to the extent of assault by kick and fist blows and holding the deceased. He submitted that the other co-accused to whom the similar role is attributed is already released on bail by this Court. Thus, on the grounds of parity also the present applicant be released on bail.

4. Learned APP strongly opposed the said application on the ground that in furtherance of common intention, the deceased was assaulted and eliminated. The deceased has sustained the head injury and cause of death of the deceased is also due to head injury. Considering the *prima facie* case made out against the present applicant, the application deserves to be rejected.

5. Perused the recitals of the FIR as well as various statements of the eye witnesses. The consistent statements of the eye witnesses and the informant shows that it was the present applicant and the other co-accused to hold the deceased from the back side and thereafter, co-accused has given a blow on his head. As per the postmortem report, two injuries are sustained by the deceased on his head

which resulted into his death. As far as the role of the present applicant is concerned, which is only to the extent of holding the deceased and assaulting the deceased by fist and kick blows. Now the investigation is already completed and charge-sheet is filed, the co-accused with the similar role is already released on bail, 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 **Pravin s/o Ashok Uparwat** shall be released on bail, in connection with Crime No.558/2023 registered with Police Station, Patur, District Akola for the offence punishable under Sections 302, 323, 326, 504 read with Section 34 of the Indian Penal Code, on executing PR Bond in the sum of Rs.25,000/- with one solvent surety in the like amount.
 - (iii) The applicant shall not induce, threat or promise any witnesses who are acquainted with the facts of the case.
 - (iv) The applicant shall attend the proceeding before the Sessions Court without seeking any exemption unless there are exception circumstances.
6. The application is disposed of.

(URMILA JOSHI-PHALKE, J.)