



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

CRIMINAL APPLICATION (BA) NO. 803 OF 2023

Amol Dineshrao Jondhale V/s 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. PR.Agrawal, counsel for applicant.

Mr. N.B. Jawade, APP for non-applicant/State.

Mrs. S.S. Jadhav, counsel for Assist to Prosecution.

CORAM : URMILA JOSHI-PHALKE, J.

DATED : 22/03/2024.

1. The applicant came to be arrested on 10/12/2022 in connection with Crime No. 789/2022 registered with Police Station Frezarpura, Tq & District Amravati for the offence punishable under Sections 143, 147, 148, 302, 307, 294, 354, 109, 504, 506 of the Indian Penal Code, 1860.

2. The accusation against the present applicant is on the basis of report lodged by Mangla Vijay Bhongle, on an allegation that on the day of incident, she along with her daughter were present in the house, and her son was in the Courtyard of the house, at that time the present applicant along with other co-accused and one unknown person by holding a knife in their hand, came in the Courtyard of the house. They started abusing her son. After hearing the shouts, she went outside the house and saw that her son had been assaulted by all four persons by means of knife. Though her daughter intervened in the

quarrel, she was also assaulted. Due to severe injuries, the injured was immediately shifted to the hospital. However, after four days of treatment, he succumbed to the death. After the death of the injured, the offence under Section 307 was converted into Section 302 of the Indian Penal Code.

3. Learned counsel for the applicant submitted that as far as the present applicant is concerned, there is a general statement made against him, and no specific role is attributed to him. In the alleged offence, the specific role is attributed to the other co-accused.

4. He further submitted that now the investigation is completed and charge-sheet is filed. He also pointed out from the injury certificate issued by the Suyash Hospital, wherein only five injuries are shown on the person of the deceased, whereas the PM. Report shows eight injuries are shown on his person. He submitted that considering the general role is attributed to the present applicant and the prima-facie case is not made out against him, in view of that he be released on bail.

5. Learned APP has strongly opposed the said application and invited my attention towards the statement of the injured, who is the sister of the deceased namely Ashwini @ Sonu, who specifically attributed the role to the present applicant. Besides the statement of the eye-witnesses, the blood stains clothes of the present applicant are seized at his instance. He submitted that

considering the prima-facie material and the nature of the offence, the application deserves to be rejected.

6. Having heard learned counsel for the applicant and learned APP for the State, perused the investigation papers. From the investigation papers, it reveals that the name of the present applicant is mentioned in the FIR alleging that the present applicant and other co-accused entered into the Courtyard of the house of the complainant by holding knife in their hand. The statement of another injured, who is the sister of the deceased, specifically attributes the role to the present applicant, who was holding the knife in his hand and assaulted her brother on his neck and caused him injury. The P.M.Report shows that in all eight injuries are found on the person of the deceased and the death of the deceased is due to multiple stab injuries on the neck. The internal organs are also damaged, due to the assault on the neck.

7. Thus, a prima facie case is made out against the present applicant as far as the contention of the learned counsel for the applicant is concerned, that investigation is completed and charge-sheet is filed, further incarceration of the present applicant is not required. While considering the bail application, the gravity of the offence and the circumstances under which the crime is committed is also looked into.

8. The applicant and the other co-accused entered into the Courtyard of the house of the informant by holding the knife in their hands shown the preparation by them. The intention of the applicant can be gathered from the circumstances that injury caused on the vital part of the body. The prime role is attributed to the present applicant as well as other two co-accused. Considering the same, the application deserves to be rejected. Accordingly, I proceed to pass the following order.

The criminal application is **rejected**.

[URMILA JOSHI-PHALKE, J]