



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

CRIMINAL APPLICATION (BA) NO. 804 OF 2024

Sakib Shah @ Chotu s/o Shafik Shah 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. Harshwardhan Chawhan, counsel for the applicant.

Mr. S.S. Hulke, APP for non-applicant/State.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 30/09/2024.

1. The applicant came to be arrested on 30/10/2023, in connection with Crime No. 557/2023 registered with Police Station Nagpuri Gate, District Amravati for the offence punishable under Section 143, 147, 148, 302, 323, read with Section 149 of the Indian Penal Code, 1860.

2. The crime is registered on the basis of a report lodged by Sheikh Javed Sheikh Rehman alleging that there was a previous dispute between his younger brother, i.e. deceased Sheikh Rajik Sheikh Rehman, with co-accused Akram Shah Rajak Shah and other persons. It is further alleged that Akram lodged the report against his brother and one Sharukh under Section 324 of the Indian Penal Code, 1860. On 29/10/2023, at about 8.00 p.m., the complainant was sitting near his house, and his younger brother Sheikh Rajik had gone towards the Pan Shop of one Azam. At that time, he was informed that the other accused and the present applicant had assaulted his brother by means of knife and he is lying in an injured condition near the

Pan Stall. He immediately rushed to the spot and saw that his brother had sustained the grievous injury on his right thigh and was lying on the spot. He immediately rushed him towards the hospital, but he succumbed to death due to the stab injury. On the basis of the report, police have registered the crime against the present applicant.

3. Heard learned counsel for the applicant, who submitted that as far as the role of the present applicant is concerned, which is only to the extent of throwing the iron pipe towards the deceased, due to which he fell on the ground. The Post Mortem Report shows that due to the act of the present applicant, he sustained the contusion on his knee, which is a simple injury. He submitted that as far as the cause of the death of the deceased is concerned, which is due to the stab injury, which is attributed to the co-accused. Now, investigation is already completed and charge-sheet is already filed, further incarceration of the present applicant is not required. In view of that, he be released on bail.

4. Learned APP strongly opposed the said application and submitted that in furtherance of the common object of the present applicant and other co-accused, deceased was eliminated due to the previous dispute. In view of that, the application deserves to be rejected.

5. After hearing learned counsel for the applicant and learned APP for the State and perused the investigation papers, from which it reveals that due to the previous dispute, there was a scuffle between the present applicant

and other co-accused and the deceased, in which the other co-accused has given a blow by knife on the person of the deceased, as well as the allegation against the present applicant is that he thrown the iron pipe, due to which the deceased had fallen on the ground and thereafter, the other co-accused inflicted a knife blow on his person. The cause of death, as per the Post Mortem Report, is due to the stab injury on the vital part of the body. Considering that the death of the deceased is not caused due to the blow given by the present applicant. Now the investigation is also completed, charge-sheet is also filed, further incarceration of the present applicant is not required, and the applicant has made out a case for grant of bail. In view of that, I proceed to pass the following order:

- a] The criminal application is allowed.
- b] The applicant – ***Sakib Shah @ Chotu s/o Shafik Shah*** shall be released on bail, in connection with Crime No. 557/2023 registered with Police Station Nagpuri Gate, District Amravati for the offence punishable under Section 302, 323, 143, 147, 148 read with Section 149 of the Indian Penal Code, 1860, on executing the PR. Bond of Rs. 25,000/- with one solvent surety in the like amount.
- c] The applicant shall not enter into the vicinity of Rahmat Nagar, Lalkhadi Road, Amravati, till culmination of the trial.

- d] The applicant shall not induce, threat or promise any witnesses who are acquainted with the facts of the present case.
- e] The applicant shall attend the proceedings before the Sessions Court without seeking any exemption unless there are exceptional circumstances.

The criminal application is **disposed of**.

[URMILA JOSHI-PHALKE, J.]