



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

CRIMINAL APPLICATION (BA) NO.812 OF 2024
(Damodar s/o Balkrushna Burade 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. A.J. Thakkar, Advocate for the applicant.
Mr. A.J. Gohokar, APP for the State.

CORAM:- URMILA JOSHI-PHALKE, J.
DATED :- SEPTEMBER 25, 2024.

The applicant came to be arrested on 03/07/2024 in connection with Crime No.684/2024 registered with Police Station Mouda, District Nagpur for the offence punishable under Sections 103(1) of the Bharatiya Nyaya Sanhita, 2023 (Section 302 of the Indian Penal Code).

2. The crime is registered on the basis of report lodged by Manjusha Mansaram Bhoyar who is the wife of the deceased alleging that on 03/07/2024 at about 9:30 AM in the morning when the informant and her daughter were in house, their neighbour rushed to their house and informed that there is a quarrel between her brother and her husband and her husband is assaulted by the present applicant who is her brother and he is lying unconscious. She immediately rushed to the spot and people were assembled there from whom she received the information that there was a quarrel between her brother and husband and her brother slapped him due to which her husband fallen on the ground and thereafter he was assaulted by

fist and kick blows which resulted into his death. On the basis of said report, police have registered the crime against the present applicant.

3. Learned Counsel for the applicant submitted that as far as the allegation is concerned even if taken as it is into the consideration, there was no intention at the most knowledge is attributable to the present applicant. During the sudden quarrel, the applicant has given a slap due to which the deceased has fallen on the ground and sustained the injuries. He submitted that now investigation is completed and charge-sheet is filed, further incarceration of the applicant is not required. There was no intention to eliminate the deceased whatever happened in a sudden fight and sudden quarrel and the case covers under the exception. In view of that, he be released on bail.

4. Learned APP strongly opposed the application on the ground that after the deceased was fallen on the ground thereafter also repeated blows are given by the present applicant which shows his intention to eliminate the deceased. Though investigation is completed but there is an apprehension of tampering of the witnesses. In view of that, the application deserves to be rejected.

5. I have heard learned Counsel for both the parties. Perused the investigation papers from which it reveals that there was a dispute between the present applicant and the deceased who is the brother-in-law of the present applicant on account of the money

transaction. There was some exchange of money between them and on that count, there was a quarrel between them. Considering the allegation against the present applicant, it reveals that on 03/07/2024 also there was a quarrel between them in the village and during that quarrel, present applicant gave a slap to the deceased due to which deceased fallen on the ground and thereafter present applicant has given 4 – 5 fist and kick blows which resulted into his death. The alleged incident is witnessed by the eye-witnesses whose statements are recorded who have also substantiated the said fact that during the sudden fight and sudden quarrel the deceased was assaulted. The death of the deceased is due to Vasovagal Syncope in case of blunt trauma to chest and abdomen unnatural death. As far as external injuries are concerned, only one injury was seen on his right knee 2 x 2 cm but there were internal injuries on the right and left lung. Thus, from the recitals of the FIR and the investigation papers it appears that the case of the applicant covers under the exception that during the sudden fight and sudden quarrel the deceased succumbed to the death as he was assaulted by the present applicant. As far as intention part is concerned which is matter of evidence. At this stage, knowledge can be attributable to the present applicant. Now, the investigation is completed and charge-sheet is filed, further incarceration of the applicant is not required. In view of that, the application deserves to be allowed. Accordingly, I proceed to pass the following

order:

- (i) The application is allowed.
 - (ii) The applicant – Damodar s/o Balkrushna Burade in connection with Crime No.684/2024 registered with Police Station Mouda, District Nagpur for the offence punishable under Sections 103(1) of the Bharatiya Nyaya Sanhita, 2023, be released on bail on executing a P.R.Bond in the sum of Rs.25,000/- with one solvent surety, in the like amount.
 - (iii) The applicant shall not enter into the vicinity of village Mouda, District Nagpur till culmination of the trial.
 - (iv) The applicant shall attend the proceedings before the Sessions Court without seeking any exemption unless there are exceptional circumstances.
 - (v) The applicant shall not directly or indirectly make any inducement and threat or promise to any person acquainted with the facts of the present case as well as the victim.
6. The contravention of any of the condition imposed by this Court would lead to cancellation of bail.
7. The application is disposed of.

(URMILA JOSHI-PHALKE, J.)