



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

CRIMINAL APPLICATION (BA) NO. 902 OF 2024

Matru s/o Birsu Tekam 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.C. Jaltare, counsel for the applicant.

Mr. S.V. Narale, APP for non-applicant/State.

CORAM : URMILA JOSHI-PHALKE, J.

DATED : 23/10/2024.

1. The applicant came to be arrested on 21/05/2023, in connection Crime No. 7/2023 registered with Police Station Pendhri, District Gadchiroli for the offence punishable under Sections 302, 201, 504, 506, 143, 147, 149 read with Section 34 of the Indian Penal Code, 1860.

2. The crime is registered on the basis of a report received by the wife of the deceased, namely Sau Salita Umesh Narote, on an allegation 13/05/2023, at about 9.00 p.m. when she was at her house along with her husband. At that time the meeting was called in her village by beating drums in regards to the electric light poll of the village. The complainant, along with her husband, went to the house of Patil of the village. Almost all the villagers were present in the said meeting. After reaching the meeting, she came to know that said meeting was held regarding the collection of Tendu Leaves. All the men and women from the village were present in the said meeting, and she was also present. During the said meeting, her husband was abused by the

village Patil- Mahadeo Narote, accusing him that he had stolen village God Idoles, and on this count, all the villagers started assaulting him and beating him with kicks and fist and blows. She alleged that one of the co-accused, namely Wasudeo Narote, had thrown a stone on the face of her husband, whereas Deu Narote had assaulted him with a wooden log. Due to which, he sustained the injuries, and the present applicant, along with the other accused, assaulted him by fist and kick blows and thrown him on the rod. On the basis of the said report, police have registered the crime against the present applicant.

3. Learned counsel, Mr. A.C. Jaltare for the applicant, submitted that, as far as the applicant is concerned, a general allegation is made against him and no weapon is attributed to him. The death of the deceased as per the post mortem report is due to head injury, which is not attributable to the present applicant. He further submitted that the statements of the eye witnesses also attribute the similar role to the present applicant. Considering the role attributed to the present applicant, and now investigation is completed and charge-sheet is 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, all the accused have assaulted the deceased, which resulted in his death. He further submitted that statement of the wife of

the deceased, who is the witness of the said incident, attributes the specific role to the present applicant that he has assaulted the deceased by fist and kick blows. Thus, prima-facie evidence is available against the present applicant. In view of that, and considering the gravity of the offence, 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 death of the deceased is due to the head injury. The said head injury is attributable to the co-accused, i.e. Wasudeo and Deu, who have assaulted the deceased by stone and by stick. As far as the present applicant is concerned, a general allegation is made against him that he, along with the other co-accused, assaulted the deceased by fist and kick blows and thrown him on the road. Considering the fact that, now investigation is completed and the role of the present applicant is against whom the general allegations are made, the application deserves to be allowed by imposing certain conditions. Accordingly, I proceed to pass the following order;

- a] The criminal application is allowed.
- b] The applicant Matru s/o Birsu Tekam, shall be released on bail, in connection Crime No. 7/2023 registered with Police Station Pendhri, District Gadchiroli for the offence punishable under Sections 302, 201, 504, 506 read with Section 34 of the Indian Penal

Code, 1860, on executing P.R. Bond of Rs. 25,000/- with one solvent surety in the like amount.

- c] The applicant shall not enter into the vicinity of Hadapeth, Tah. Dhanora, District Gadchiroli till culmination of the trial.
- d] The applicant shall attend the proceedings before the Sessions Court without seeking any exemption unless there are exceptional circumstances.
- e] The applicant shall not induce, threat or promise any witnesses who are acquainted with the facts of the present case.
- f] The fees of the appointed counsel be quantified as per Rule.

The criminal application is **disposed of**.

[URMILA JOSHI-PHALKE, J.]