



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

CRIMINAL APPLICATION (BA) NO. 873 OF 2024

Sumit Samadhan Hiwale 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. M.P. Kariya, counsel for applicant.

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

CORAM : URMILA JOSHI-PHALKE, J.

DATED : 17/10/2024.

1. The applicant came to be arrested on 15/04/2024, in connection with crime no. 307/2024 registered with Police Station Buldhana for the offences punishable under Sections 302, 326 read with Section 34 of the Indian Penal Code, 1860.

2. Initially, the crime was registered against an unknown person. On the basis of the report lodged by Kunal Subhash Nikalje and on the basis of the statements of the eye-witnesses, the involvement of the present applicant is revealed, and therefore, the present applicant is arrested.

3. As per the allegation, there was a procession on account of Dr. Babasaheb Ambedkar Jayanti, at the relevant time, the scuffle took place in the said procession, and the co-accused has given a blow of knife on the chest of the deceased and the present applicant and other co-accused, at the relevant time, were holding the

deceased. On the basis of the said report, police have registered the crime against the present applicant.

4. Mr. M.P Kariya, learned counsel for the applicant submitted that, as far as the involvement of the present applicant in the alleged crime itself is doubtful. He invited my attention towards the report filed by the investigating agency before the trial court, at the time of seeking police custody and submitted that, on the day of the arrest, there was no material with the investigating agency to show the involvement of the present applicant in the alleged incident. Subsequently, the statements are recorded. Thus, the arrest of the present applicant itself is without having any basis for the said arrest. He submitted that, even considering the role attributed to the present applicant, he is not the person who has given a blow of the knife on the deceased. Thus, considering the role attributed to him, he be released on bail.

5. Learned APP strongly opposed the said application and submitted that, during the procession, this applicant and the other co-accused hold the deceased, and the co-accused has given a forceful blow on the vital part of the deceased. If the present applicant would not have hold him, it was difficult for the co-accused to execute the act. The injuries sustained by the deceased are on the vital part of the body. The force used by the co-accused is also apparent from the post mortem examination. In view of that, 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 which it reveals that on the basis of the statements of the witnesses who have witnessed the said incident, direct evidence is available against the present applicant. Thus, it is apparent that present applicant and the other co-accused to hold the deceased, and at the relevant time, the other co-accused had given a forceful blow on the chest of the deceased, which is a vital part of the body. The force and the intention can be gathered from the circumstances, like the injury sustained by the deceased and internal injuries sustained by him.

Thus, considering the role attributed to the present applicant and the statements of the eye witnesses, prima-facie case is made out. In view of that, the application deserves to be rejected. Accordingly, I proceed to pass the following order:

a] The criminal application is **rejected**.

[URMILA JOSHI-PHALKE, J.]