



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

CRIMINAL APPLICATION (BA) NO.926 OF 2024

(Khushal Raju Tumdam 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. S. Singh, Advocate h/f Mr. A.M. Chandekar, Advocate for the
applicant.

Mr. N. Autkar, APP for the State.

CORAM:- URMILA JOSHI-PHALKE, J.

DATED :- OCTOBER 22, 2024.

By this application, the applicant is seeking bail as he came to be arrested on 14/01/2024 in connection with Crime No.60/2024 registered with Police Station Hinganghat, District Wardha for the offence punishable under Section 302 of the Indian Penal Code.

2. The crime is registered on the basis of report lodged by wife of the deceased on an allegation that her husband was Mason and the applicant is her nephew who was addicted to the bad voices like drinking the liquor. He was harassing them for leaving the house. It is further alleged that there was a previous dispute between the present applicant and her husband and present applicant was having grudge regarding her husband. On 09/01/2024 at about 7.00 AM her husband was not seen in the house and subsequently she came to know that the dead body of her husband was found on the road. She immediately rushed to the hospital but her husband

succumbed to the death. She suspected that it was the present applicant who has committed his murder. On the basis of the said report, police have registered the crime against the present applicant.

3. Learned Counsel for the applicant submitted that the FIR is lodged after six days of the incident. Initially, there was an accidental death registered as the deceased has sustained the accidental injury. The statement of the witnesses also shows that they received the information that the deceased sustained the injuries in an accident and due to the said injury, he succumbed to the death. But subsequently after thought only to implicate the present applicant in the false crime this false FIR is lodged. Now, investigation is already completed, charge-sheet is filed, further incarceration of the present applicant is not required.

4. Learned APP strongly opposed the application and submitted that there are eye-witnesses to the incident which shows the involvement of the present applicant in the alleged incident. He submitted that considering the statements of the eye-witnesses, at this stage, it cannot be said that the applicant died due to the accidental injuries. Considering the *prima facie* material against the present applicant, bail application deserves to be rejected.

5. I have heard learned Counsel for both the parties. Perused the investigation papers. Admittedly, the

crime is registered on the basis of the report lodged by the wife of the deceased. Initially, her statement was recorded by the police after registering the accidental death. At the relevant time she has not disclosed about any enmity between her husband and the present applicant and subsequently, the FIR is lodged. Initially, the accidental death was registered. Admittedly, there are eye-witnesses of the said incident but their statements are recorded after registration of the crime. They have not disclosed the said incident at the initial stage. Thus, considering the fact that there is a contradictory versions in respect of the death of the deceased as initially the accidental death was registered and subsequently after four days the alleged crime is registered. Now, investigation is completed, charge-sheet is filed. Considering the nature of the investigation carried out, further incarceration of the present 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 – Khushal Raju Tumdam in connection with Crime No.60/2024 registered with Police Station Hinganghat, District Wardha for the offence punishable under Section 302 of the Indian Penal Code, be released on bail on executing P.R. bond in the sum of Rs.25,000/- with one surety in the like amount.

(iii) The applicant shall not enter into the vicinity of Hinganghat, District Wardha except attending the Court proceedings, till the culmination of the trial.

(iv) The applicant shall furnish the address wherein he is intending to reside after he is released on bail, along with address proof.

(v) The applicant shall not induce, threat or promise any witnesses in any manner who are acquainted with the facts of the case either personally or by way of electronic media.

(vi) The applicant shall attend the proceedings before the Sessions Court regularly without seeking any exemption unless there are exceptional circumstances.

(vii) The contravention of any of the condition would lead to the cancellation of bail.

6. The application is disposed of.

(URMILA JOSHI-PHALKE, J.)