



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

CRIMINAL APPLICATION (BA) NO.1024 OF 2024
(Devidas s/o Punjaram Chauthale Vs. The 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. V.S. Uberoi, Advocate for the applicant.
Mr. K.R. Lule, APP for the State.

CORAM:- URMILA JOSHI-PHALKE, J.
DATED :- DECEMBER 12, 2024.

Heard.

2. By this application, the applicant is seeking bail as he came to be arrested on 24/04/2022 in connection with Crime No.110/2022 registered with police station Ashti, District Gadchiroli for the offence punishable under Sections 302 of the Indian Penal Code.

3. The crime is registered against the present applicant on the basis of report lodged by one Vinod Punjaram Chouthale on an allegation that he along with his elder brother namely Devidas and Vijo @ Vidya i.e. the deceased are residing together at the given address. The applicant Devidas is the husband of the said Vijo @ Vidya and there was no cordial relations between them. On earlier day of the incident also there was a quarrel between them and on 24/04/2022 he was informed by his father that deceased is found dead in her house.

Thereafter he made enquiry with the present applicant and present applicant disclosed to him that he has assaulted the deceased on her head by means of iron sabal and thereafter strangled her neck. On the basis of said report, police have registered the crime against the present applicant.

4. Learned Counsel for the applicant submitted that the entire case is based on the circumstantial evidence. As far as the causing of the death by the present applicant is concerned there is no direct evidence in the nature of eye-witness. Merely on the basis of the extra judicial confession which is a very weak type of evidence. The prosecution arraigned the present applicant as an accused. Since the date of arrest i.e. on 24/04/2022, the applicant is behind bar and there is no progress in the trial. Considering the right of the present applicant of the speedy trial under Article 21 of the Constitution of India is affected and the entire case is based on the circumstantial evidence, the applicant be released on bail.

5. Learned APP strongly opposed the application and submitted that there was no cordial relations between the present applicant and the deceased. Prior to this incident also, one complaint was lodged on 03/12/2021 at Ashti police station on the basis of the statement of the deceased wherein she has alleged that present applicant was addicted to bad vices like drinking liquor and harassing her. He submitted that on the earlier day of the

incident also the applicant has assaulted her and there was a quarrel between them and on that count the deceased was eliminated by the present applicant. He submitted that as far as delay is concerned it is not because of the prosecution has not proceeded with the trial but the applicant has taken approximately one year to file his Vakalatnama thereafter, filed his reply. Now charge is already framed and the witness list is also submitted before the Court. The chemical analysis report is also received, therefore, trial can be commenced at any stage. He submitted that considering delay is not on the part of the prosecution the application deserves to be rejected.

6. I have heard learned Counsel for both the parties. Perused the investigation papers from which it reveals that the FIR is lodged by the brother-in-law of the deceased who has stated that there was no cordial relations between the present applicant and the deceased who is his wife as present applicant was addicted to the bad vices. There is an extra judicial confession by the present applicant to his brother as well as another witness namely Vinayak Khemaji Timade. Besides the extra judicial confession the blood stained sabal was seized at the instance of the present applicant. The query report shows that the injuries sustained by the deceased are possible by the said weapon. The postmortem report is also on record which shows that the death of the deceased is due to the head injury along with the strangulation. The

death of the deceased is caused in a matrimonial house wherein she was residing along with the present applicant.

7. Thus, it is not the case which is completely rested on the extra judicial confession but there is other circumstantial evidence in the nature of recovery of the weapon having blood stains at the instance of the present applicant and the extra judicial confession to the various persons.

8. The another aspect raised by the learned Counsel for the applicant that there is a delay in trial. The applicant is arrested on 24/04/2022. The report of the District and Sessions Judge shows that the applicant has taken approximately one year for filing his Vakalatnama thereafter he filed an application for bail. Thereafter the charge was framed and now case is already fixed for recording the evidence. Recently, this aspect is considered by the Hon'ble Apex Court in the case of ***X Vs. State of Rajasthan & Anr. [Special Leave Petition (Criminal) No. 13378 of 2024]*** wherein it is held that it is only in the event if the trial gets unduly delayed and that too for no fault on the part of the accused, the Court may be justified in ordering his release on bail on the ground that right of the accused to have a speedy trial has been infringed.

9. As far as present applicant is concerned it reveals that it is not only the prosecution but it is on the

part of the accused also the delay is caused. Now, the charge is already framed and the witnesses are already summoned. The CA reports are also received. In view of that, trial can be commenced at any stage. In view of that, the application deserves to be rejected.

10. Hence, the application is rejected accordingly.

(URMILA JOSHI-PHALKE, J.)

**Divya*