



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

CRIMINAL APPLICATION (BA) NO.994 OF 2024
(Sachin s/o Atmarao Rathod 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. P. Patil, Advocate for the applicant.
Mr. K.R. Lule, APP for the State.

CORAM:- URMILA JOSHI-PHALKE, J.
DATED :- NOVEMBER 26, 2024

By this application, the applicant is seeking bail as he came to be arrested on 10/04/2024 in connection with Crime No.279/2024 registered with police station, Chikhali, Tah. Chikhali, District Buldana for the offence punishable under Sections 302, 304, 307 and 201 read with Section 34 of the IPC.

2. Initially, the crime was registered on the basis of the report lodged by Laxmi Raju Wagh against the unknown person. During investigation, the CCTV footage was obtained and the involvement of the present applicant along with the co-accused was revealed. The Investigating Officer has also recorded the statements of the eye-witnesses and on the basis of the same, the crime is registered against the present applicant. The statements of the present applicant and other co-accused was recorded under Section 27 and after completion of the investigation, the charge-sheet is submitted.

3. The death of the deceased is due to the multiple injuries sustained by him and especially due to the head injury.

4. Learned Counsel for the applicant submitted that as far as the present applicant is concerned against whom general allegation is levelled. He submitted that the statements of the witnesses also nowhere discloses regarding any act or overt act on the part of the present applicant. He also invited my attention towards the various statements of the eye-witnesses as well as CCTV footage panchnama and the other investigation papers and submitted that there was no pre-mediation. The entire incident occurred suddenly and due to the provocation by the deceased. The deceased has sustained injuries in the said incident and he succumbed to the death. Now, the investigation is completed and charge-sheet is filed, further incarceration of the applicant is not required. In view of that, he be released on bail.

5. Learned APP strongly opposed the application on the ground that on the basis of the CCTV footage the involvement of the present applicant is revealed. The applicant has extended his act by banging the head against the tiles on the step due to which deceased has sustained the injuries. Several eye-witnesses have stated about the alleged incident from which it reveals that the applicant and the other co-accused were roaming during the night hours, and therefore, they are restrained by the

deceased and during altercation of the words, deceased slapped one of the accused and on that count both the accused assaulted him and caused his death. He submitted that considering the entire nature of the incident, the application deserves to be rejected.

6. I have heard learned Counsel for both the parties. Perused the investigation papers it reveals admittedly, the FIR was lodged against the unknown person. During investigation, the Investigating Officer has collected the CCTV footage. From the CCTV footage it revealed that the present applicant and the other co-accused have assaulted the deceased initially by fists and kick blows and subsequently they caught hold of the neck of the deceased and banged him against the wall of the shop and caused the death. The statements of the eye-witnesses are also recorded from which it reveals that the applicant and other co-accused were roaming during the night hours, therefore, the deceased restrained them and during altercation of the words deceased slapped one of the accused, and therefore, quarrel took place and in that incident, the deceased was assaulted by the present applicant and the other co-accused. In the said incident, the deceased has sustained as many as 7 injuries. There are internal injuries also from which it can be ascertained the force used by the present applicant and the other co-accused. The death of the deceased is caused due to the head injury. Even accepting the allegation that there was provocation by the deceased then also it appears that the

applicant has extended the act and caught hold him and banged his head against the wall and caused his death. Thus, intention can be gathered from the said circumstances. Considering the gravity of the offence for which the punishment of life imprisonment is provided, the application deserves to be rejected.

7. Hence, the application is rejected accordingly.

(URMILA JOSHI-PHALKE, J.)

**Divya*