



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

CRIMINAL APPLICATION (BA) NO.1067 OF 2024

(Narayan @ Gapal Ukharda Wagh 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.V. Rai, Advocate for the applicant.
Mrs. H.N. Prabhu, APP for the State.

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

Heard.

2. By this application, the applicants are seeking bail as they came to be arrested on 16/05/2024 in connection with Crime No.267/2024 registered with police station Shegaon, District Buldhana for the offence punishable under Section 302 and 201 read with Section 34 of the Indian Penal Code.

3. The crime is registered on the allegation that initially one Merg Report was filed and during the enquiry with Merg report it revealed that the deceased Laxman Vasudev Mankar had succumbed to death during his treatment at Saibai Mote Rural Hospital, Shegaon. The statements of the witnesses have recorded and it revealed to the investigating agency that deceased was addicted to liquor. Initially the story narrated by the wife of the deceased is that he fell down from vehicle and sustained the injuries. The death of the deceased is due to the head injury. Thereafter the investigation was carried out and it

revealed that the applicant along with the co-accused have assaulted the deceased by means of stick due to which he was grievously injured and succumbed to the injuries. On the basis of the said report, police have registered the crime against the present applicant and the co-accused.

4. Learned Counsel for the applicant submitted that as far as the head injury is concerned which is attributed to the co-accused. He invited my attention towards the summary of the charge-sheet and submitted that from the summary of the charge-sheet it reveals that the role attributed to the present applicant is assault by stick on the thigh and death of the deceased is caused due to the head injury. He further submitted that from the statements of the witnesses it reveals that there was a quarrel between Balu Balu Ramkrushna Wande and the deceased and in that incident said Balu Wande has thrown the brick towards the head of the deceased which hit him and death of the deceased is caused. As far as the present applicant is concerned there is no single statement to show that he has assaulted by means of stick on the head. He submitted that now investigation is completed and charge-sheet is filed, further incarceration of the present applicant is not required. In view of that, the applicant be released on bail.

5. Learned APP strongly opposed the application and submitted that the deceased has sustained as many as 16 injuries. Most of the injuries are in the nature of contusion and abrasion. One CLW over right side of

forehead of size 6 cm with stitches in situ. She submitted that the death of the deceased is also caused due to the head injury. The statements of the witnesses show that present applicant was holding stick in his hand. The stick is recovered having blood stains. Thus, considering the material collected during the investigation, *prima facie* case is made out against the present applicant. In view of that, application deserves to be rejected.

6. I have heard learned Counsel for both the parties. Perused the investigation papers from which it reveals that there was a sudden quarrel between the deceased, present applicant and the co-accused. In the said quarrel deceased was also holding sickle in his hand and during the scuffle between them, the co-accused has hit the head of the deceased by throwing brick. There is only one injury on the head of the deceased which is attributed to the co-accused. As far as the assault by the present applicant by stick is concerned admittedly, no direct evidence is available but considering the summary of the charge-sheet which shows that the role attributed to the present applicant is that he has assaulted the deceased by means of stick on his head. Even accepting the contention that the applicant has used the stick to assault the deceased on head it is apparent that in a free fight between the deceased and the present applicant and the other co-accused, deceased was assaulted and death is caused. Now, investigation is already completed and charge-sheet is filed, further incarceration of the 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 – Narayan @ Gapal Ukharda Wagh in connection with Crime No.267/2024 registered with police station Shegaon, District Buldhana for the offence punishable under Section 302 and 201 read with Section 34 of the Indian Penal Code, be released on bail on executing P.R. bond of Rs.25,000/- with one solvent surety each in the like amount.
- (iii) The applicant shall not induce, threat or promise any witnesses who are acquainted with the facts of the case either personally or by way of electronic media.
- (iv) The applicant shall not enter into the vicinity of Rokdiya Nagar, Shegaon, till culmination of the trial.
- (v) The applicant shall attend the proceedings before the Sessions Court without seeking any exemption unless there are exceptional circumstances.

7. The application is disposed of.

(URMILA JOSHI-PHALKE, J.)