



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

CRIMINAL APPLICATION (BA) NO.1053 OF 2024
(Raghuvir s/o Shiva Mohinkar 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. U.P. Dable, Advocate for the applicant.
Ms S. Haider, APP for the State.

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

The applicant came to be arrested on 06/04/2023 in connection with Crime No.202/2023 registered with Police Station Umred, District Nagpur for the offence punishable under Section 302 read with Section 34 of the Indian Penal Code.

2. The crime is registered on the basis of report lodged by Kiran Kothiram Hatwar on an allegation that on 06/04/2023 at about 2.30 PM he met one Chirag Dhware in the Gangapur square. When they were chitchatting with each other they heard the noise of shouting and they immediately rushed to the spot of incident and saw that there was an altercation of the words between the present applicant, his brother Nitesh and the deceased Anis Ajij Sheikh. At the relevant time, the co-accused Nitesh was asking the deceased why he is abusing by taking the name of his sister and mother. At the relevant time, present applicant instigated him by saying that assault him as he is

abusing them on the name of their sister. Immediately, the co-accused has picked up the wooden log and gave 2 - 3 blows on the head of the deceased due to which the deceased sustained the injuries and succumbed to the death. As far as the present applicant is concerned only allegation against him is that he has assaulted by means of fist and kick blows and also instigated the other co-accused to assault the deceased.

3. Learned Counsel for the applicant submitted that considering the role attributed to the present applicant admittedly, the alleged incident has taken place as the deceased has abused the applicant and his brother by taking the names of his sister and mother, and therefore, the applicant and other co-accused got annoyed and the alleged incident has taken place. Thus, there was no pre-mediation or intention to cause death. Due to the provocation at the hands of the deceased the alleged incident has taken place. Now, 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.

4. Learned APP strongly opposed the application and submitted that in furtherance of common intention the deceased was assaulted by the present applicant and other co-accused. Considering the nature of the offence for which the imprisonment of life is provided and there is every likelihood of tampering of the witnesses. The

application deserves to be rejected.

5. I have heard learned Counsel for both the sides. Perused the investigation papers including the recitals of the FIR and the statements of the eye-witnesses which reveals that only role attributed to the present applicant is that he assaulted the deceased by means of fist and kick blows and instigated the other co-accused. Now, investigation is already completed, charge-sheet is filed. As far as the nature of the incident is concerned it reveals from the recitals of the FIR and the statements of the witnesses that as the deceased was abusing the applicant by taking names of mother and sister, therefore, he was assaulted.

6. Considering the abovesaid circumstances and the fact that the investigation is completed, the applicant has made out a case for grant of bail. Accordingly, I proceed to pass the following order:

(i) The application is allowed.

(ii) The applicant – Raghuvir s/o Shiva Mohinkar in connection with Crime No.202/2023 registered with Police Station Umred, District Nagpur for the offence punishable under Section 302 read with Section 34 of the Indian Penal Code, be released on bail on executing a PR.Bond in

the sum of Rs.25,000/- with one solvent surety, in the like amount.

(iii) The applicant shall not directly or indirectly make any inducement and threat or promise to any person acquainted with the facts of the present case either personally or by way of electronic media.

(iv) The applicant shall not enter into the vicinity of village Gangapur, Umred, District Nagpur 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.

(vi) The applicant shall furnish his detailed address where he is intending to reside after he is released on bail along with Cell phone number before the Investigating Officer.

7. The contravention of any of the condition imposed by this Court would lead to cancellation of bail.

8. The application is disposed of.

(URMILA JOSHI-PHALKE, J.)