



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL APPLICATION (BA) NO.1016 OF 2023

Sahil Sheikh @ Raja s/o Baba Sheikh
Vs.

State of Maharashtra, Through Police Station Officer, Sakkardara Police Station,
Nagpur, District Nagpur

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. Parth Malviya, Advocate for applicant.
Ms. Sneha Dhote, APP for respondent/State.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 04/01/2024

1. By preferring this application, the applicant is seeking bail under Section 439 of the Code of Criminal Procedure in connection with Crime No.328/2020 registered with Police Station Sakkardara, Nagpur, District Nagpur for the offence punishable under Sections 302, 120-B, 114, 188, 212 and 342 read with Section 34 of the Indian Penal Code and under Section 51(b) of the National Disaster and Management Act and under Sections 142, 135 and 37(1)(3) of the Maharashtra Police Act. The applicant is arrested on 23.06.2020 since then he is behind bar.

2. The crime is registered on the basis of report lodged by the informant on an allegation that on 22.06.2020 at about 12.00 a.m. accused Ajay Mishra came to his house and called his brother Gaurav. Thereafter, Gaurav informed his mother that he is visiting

to Pan Kiosk with Ajay. After half an hour, said Ajay came near the house of the complainant and started shouting that the applicant and the other co-accused assaulted Gaurav. Due to which, the deceased has sustained the grievous injury and succumbed to death. It is alleged that the present applicant has assaulted the deceased by means of piece of tile and other co-accused assaulted him by means of wooden rafter having nails and the stones. On the basis of said report, police have registered the crime against the present applicant.

3. Learned Counsel for the applicant submitted that as far as the present applicant is concerned, the allegation is that he has assaulted the deceased by means of piece of tile. He further invited my attention towards the recitals of the FIR and the statement of the various witnesses who alleged to be eye witnesses and submitted that from the statement of the eye witnesses it reveals that, there is inconsistency between the statement of the informant and the other eye witnesses. He further submitted that from the statement of one Akshay Ravindra Bhujade who alleged to be an eye witness, it appears that the family members of deceased came after the assailant left the spot of incident. Thus, informant is not an eye witness of the said incident. He further submitted that since the date of arrest the present applicant is behind bar. There is no substantial progress in the trial and the trial would not conclude in the near future. Further incarceration of the present applicant is

not required. In view of that, the present applicant be released on bail.

4. The said application is strongly opposed by the State on the ground that considering the manner in which the alleged incident has taken place, the deceased has sustained the grievous injuries on his persons which resulted into his death. The internal injuries sustained by the deceased shows that the force which is used by the present applicant and other co-accused while assaulting the deceased. Learned APP further submitted that there are criminal antecedents against the present applicant. Considering the gravity of offence and criminal antecedents, the application deserves to be rejected.

5. Having heard the learned Counsel for the applicant and learned APP for the State. Perused the investigation papers. From the recitals of the FIR it reveals that, the role attributed to the present applicant that he has assaulted the deceased by means of piece of tile whereas other accused assaulted by means of wooden rafter, stones and iron handle. The deceased has sustained in all six injuries which are of grievous in nature. He has also sustained the corresponding injury on the internal part of the body. From the recitals of the FIR and statements of the witnesses, *prima facie* case made out against the present applicant to connect him with the alleged offence. There are criminal antecedents also. Considering the gravity of the offence, the circumstances in which the alleged incident has taken

place, the injury is caused to the deceased and the criminal antecedents against the present applicant, application deserves to be rejected. However, considering the applicant is behind bar since the date of his arrest i.e. 23.06.2020, trial needs to be expedited. Accordingly, I proceed to pass following order.

ORDER

- (i) The application is rejected.
- (ii) The trial is expedited and the trial Court is directed to make every endeavour to conclude the trial within one year.

The application is disposed of.

(URMILA JOSHI-PHALKE, J.)