



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

CRIMINAL APPLICATION (BA) NO. 1144 OF 2024

Mr. Piyush Rajesh Awale (In Jail) 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. Inamul Haque, counsel for applicant.

Ms. Kavita Bhondge, APP for non-applicant/State.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 16/12/2024.

1. The applicant came to be arrested on 17/04/2023 in connection with Crime No. 395/2023 registered with Police Station Wardha, District Wardha for the offence punishable under Sections 302, 201 read with Section 34 of the Indian Penal Code, 1860.

2. The crime is registered on the basis of the report lodged by Nilesh Laxman Mehar, on an allegation that on 14/04/2023, there was a celebration on the occasion of Dr. Babaseheb Ambedkar Jayanti, and they all were dancing on the light and music of DJ (Musical Instrument). At the relevant time, the leg of the deceased touched to the present applicant, and therefore, he got annoyed and gave a blow of knife on the chest of the deceased. Due to which, the deceased sustained the grievous injury and succumbed to the death. On the basis of the said report, police have registered the crime against the present applicant. During investigation the Dying

Declaration was recorded, wherein also the deceased has specifically stated that he was assaulted by the present applicant by means of a knife. There are eye-witnesses, who witnessed the said incident, who supported the prosecution case, and therefore, after completion of the investigation, the charge-sheet is filed by the investigating agency.

3. Heard learned counsel for the applicant, who submitted that as per the statement of the deceased, he was assaulted by knife. Whereas the knife, which is usually used by the carpenter, namely "Patas" was seized by the investigating agency on the statement of the present applicant. Thus, considering the inconsistency between the weapon narrated by the deceased and the weapon seized, the prosecution case becomes doubtful.

4. He further submitted that there was no light available at the spot of the incident, and therefore, it is difficult to ascertain who actually gave the blow on the person of the deceased. He submitted that now the investigation is already completed and the charge-sheet is already filed, the applicant is behind bar since the date of his arrest, i.e. on 17/4/2023, and there is no progress in the trial. For all above the reasons, he prayed for releasing the applicant on bail.

5. Learned APP strongly opposed the said application and submitted that considering the role attributed to the present applicant, which is supported and

substantiated by the eye-witnesses. The weapon is also recovered at the instance of the present applicant, and the query report shows that the injuries sustained by the deceased are possible by the said weapon. The prayer for grant of bail deserves to be rejected.

6. After hearing both sides and on perusal of the investigation papers, the deceased was assaulted due to the quarrel on trifle reason, and he gave a blow on the vital part of the body, i.e., on the chest. The intention of the applicant can be gathered from the said circumstances. There is direct evidence as far as the involvement of the present applicant in the alleged incident is concerned. Considering the prima-facie material against the present applicant, there is an instantaneous death of the deceased due to the said injury. Hence, this is not a fit case to use the discretion. Accordingly, I proceed to pass the following order.

The criminal application is rejected.

[URMILA JOSHI-PHALKE, J.]