



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

CRIMINAL APPLICATION (BA) NO. 1123/2023

Saiyad Jabir Saiyad Wahab (Jail) V/s 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. A.S. Londhe, counsel for the applicant.

Mrs. M.A.Barbde, APP for the non-applicant/State.

CORAM : URMILA JOSHI-PHALKE, J.

DATED : 07/02/2024.

1. The present application is preferred by the applicant for grant of bail under Section 439 of the Code of Criminal Procedure, 1973, in connection with Crime No. 441/2021 registered at Police Station Murtizapur Gramin, Tq. Murtizapur District Akola for the offences punishable under Sections 302, 304, read with 34 of the Indian Penal Code, 1860. The applicant is arrested on 19/11/2021 and since then he is behind bar.

2. The accusation against the present applicant is on the basis of the report lodged by Rohan Kishor Giri, who alleged that on 19/11/2021, he was out of the house for some work, at the relevant time, he received a phone call of one Arjun Giri at about 1.30 p.m., who disclosed that some persons assaulting his family members by entering into the house. He immediately rushed to the house, at the relevant time, present applicant along with *Ishwar Puri, Archana Giri and Bebi Mohan Giri* were present in the house and

assaulting his family members. The allegation further shows that present applicant was holding sickle in his hand, and he has assaulted his parents as well as other family members. Due to which, his parents have sustained the grievous injury as well as Jijabai Niranjan Puri also sustained the injuries. All the injured were taken to the hospital, during the treatment Kishor Vitthal Puri and Durgabai Kishor Giri both succumbed to the death. On the basis of said report, the police registered the crime against the present applicant as well as other co-accused.

3. Heard learned counsel Mr. A.S. Londhe for the applicant submitted that other two co-accused are already released on bail. Now, investigation is completed and charge-sheet is filed, further incarceration of the present applicant is not required. He further submitted that the applicant is falsely implicated in the alleged incident, as there is no prima-facie material against the present applicant, hence he be released on bail.

4. Learned APP strongly opposed the application and submitted that direct evidence in the nature of statement of the eye-witnesses, sufficiently shows the involvement of the present applicant in the alleged offence. The present applicant was holding sickle in his hand, and the deceased have sustained the injuries by means of that sickle. The eye witness Jijabai Niranjan Puri has also sustained the injuries in the alleged incident and two persons have lost their lives.

Considering the gravity of the offence, the application deserves to be rejected.

5. Having heard learned counsel for the applicant and learned APP for the State, perused the investigation papers. The informant Rohan Kishor Giri has lodged the report against the present applicant and other co-accused wherein he specifically alleged that present applicant was holding sickle in his hand and he has assaulted his parents by means of that sickle. Informant is one of the eye witnesses in the alleged incident, besides him there are two eye witnesses Jijabai Niranjana Puri and Arujn Manoj Gir both have witnessed the incident. Their statements are also substantiated by the pm report which shows that Kishor Vitthal Giri has sustained the injury on his vital part of the body and death of the deceased is caused due to the head injury. Whereas, Durga Kishor Giri have sustained as many as 8 injuries and death of the deceased is also head injury. The internal injury sustained by both the deceased sufficiently shows the force used by the present applicant while assaulting them.

6. Thus intention of the present applicant can be gathered from these circumstances. It is apparent that present applicant and other co-accused entered into the house of the informant and assaulted both the deceased in a deadly weapon which resulted into the death. The two persons have lost their lives in the alleged incident. Considering the gravity of the offence and the prima-facie

material in the nature of the eye-witnesses, bail application deserves to be rejected. Accordingly, I proceed to pass the following order:

The criminal application is **rejected**.

[URMILA JOSHI-PHALKE, J.]