



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

CRIMINAL APPLICATION (BA) NO. 1105/2023

Mahadeo Pralhad Dhattrak and another 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. R.M.Daga, counsel for the applicant.

Mr. A.R.Chutke, APP for the non-applicant/State.

Mr. M.V.Amale, counsel for Assist to Prosecution.

CORAM : URMILA JOSHI-PHALKE, J.

DATED : 22/01/2024.

1. The present application is filed by the applicants for grant of bail, in connection with Crime No.81/2023 registered with Police Station Channi, Tq. Patur, District Akola, for the offences punishable under Sections 302, 307, 324, 294, 323, 427, 506 read with Section 34 of the Indian Penal Code, 1860. The applicants came to be arrested on 05/04/2023 and 06/04/2023 respectively.

2. The accusations against the present applicants is on the basis of report lodged by Vijaya Shamrao Kaldade, on an allegation that Manisha who is her daughter, whose marriage was performed with the co-accused Ganesh Pralhad Dhattrak. On 26/03/2023, Manisha was admitted in the hospital and therefore, the deceased received a phone call from the co-accused Ganesh, asking why Manisha was admitted in the Akola hospital and paid the entire bills. Thereafter, on the same day, 29/03/2023 at about 5.30 to 06.00 a.m., the co-accused Ganesh along

with present applicants came near the house and called the deceased at the same place. Thereafter, the deceased was assaulted by the present applicants as well as co-accused Ganesh by fist and kick blows. At the relevant time, co-accused Ganesh have taken out the knife and gave a blow on his chest and thigh, due to which he sustained the injuries and during the treatment he died on 03/04/2023. On the basis of said report, the Police have registered the crime against the present applicants.

3. Mr. R.M.Daga, learned counsel for the applicants submitted as far as the role of the present applicants is concerned, which is to the extent of caught hold of the deceased and assaulted him by fist and kick blows. He further submitted that now charge-sheet is filed further custodial interrogation of the present applicants is not required. As far as the apprehension is concerned, the applicants are ready to stay outside the village Alegaon, Taluka Patur, District Akola.

4. Learned APP strongly opposed the present application on the ground that as the present applicants caught hold the deceased and therefore, the co-accused succeeded in eliminating the deceased. Thus, the common intention of the applicants shared along with the co-accused can be ascertained from this fact. Now, the charge is already framed and trial can be commenced.

5. He further invited my attention towards one N.C. Report which is lodged by the father of the deceased

showing that there is apprehension that if the applicants are released on bail, they will tamper with the prosecution evidence. He further submitted that the statements of the eye-witnesses sufficiently shows the involvement of the present applicants. Prima-facie case is made out against the applicants. In view of that, criminal application deserves to be rejected.

6. Learned counsel for the informant has also reiterated the contentions and submitted that if the applicants are released on bail, there is every possibility with the family members of the deceased will get threatening and there is a danger to their lives also, and prays for rejection of the application.

7. Having heard learned counsel for the applicants and learned APP for the State, perused the investigation papers.

8. The recitals of the FIR shows that the applicants have called the deceased near the Tea-stall and assaulted him by fist and kick blows. At the relevant time, co-accused has taken out the knife and gave a blow of his chest and the thighs. Due to which, the deceased has sustained the grievous injury. During the investigation, the statement of the eye-witnesses are also recorded, who have attributed the role to the present applicants that they have caught hold the deceased and the co-accused has given a blow of knife on the vital part of the body.

9. Learned counsel for the applicants submitted that though the eye-witnesses have attributed the role to the present applicants of catching hold in their 161 statements. However, during 164 statement under the Code of Criminal Procedure they have not whispered about catching hold by present applicant. Perused the 161 statement of Totaram Namdeo Katkar, as well as Ganesh Punjaji Kaldade and other eye-witnesses. Admittedly, the witness namely Totaram has not attributed the role to the present applicants of catching hold the deceased in 162 statements. However, the eye-witnesses Pawan Gajanan Yeoul has specifically stated that present applicants have caught hold the deceased and thereafter, the co-accused have given a blow by knife on the person of the deceased. Thus, the role attributed to the present applicants is to the extent of assault by the fist and kick blows and also catching hold the deceased.

10. Now, the investigation is completed and charge-sheet is filed, considering the role attributed to the present applicants, admittedly they have not attributed any overt act in the said incident. In view of that, their application can be considered by imposing certain conditions. Accordingly, I proceed to pass following order:

- a) The criminal application is **allowed**.
- b) The applicants are released on bail in connection with Crime No.81/2023 registered with Police Station Channi, Tq. Patur, District

Akola, for the offences punishable under Sections 302, 307, 324, 294, 323, 427, 506 read with Section 34 of the Indian Penal Code, 1860, the applicants are released on bail on executing P.R. bond in the sum of Rs.25,000/- each with one or two sureties in the like amount.

- c) The applicants shall not enter into the vicinity of village Alegaon, Tah. Patur District Akola, till culmination of the trial.
- d) The applicants shall not in any manner induce, threat, promises or contact the witnesses who are acquainted with the facts of the case.
- e) The applicants shall furnish their cell phone number and address with address proof before the Investigating Officer and the District Court Akola.
- f) The contravention of the above conditions will result into cancellation of the bail of the applicants.

The criminal application **disposed of.**

[URMILA JOSHI-PHALKE, J.]