



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

CRIMINAL APPLICATION (BA) NO.1118 OF 2023
(Sachin s/o Bhagyawan Chakranarayan 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, Advocate for the applicant.
Ms M.A. Barabde, APP for the State.

CORAM:- URMILA JOSHI-PHALKE, J.
DATED :- FEBRUARY 2, 2024.

By preferring this application, the applicant is seeking bail under Section 439 of the Code of Criminal Procedure. The applicant came to be arrested on 11/07/2023 in connection with Crime No.189/2023 registered with Police Station Old City, Akola, District Akola for the offence punishable under Section 302 of the Indian Penal Code and Section 92(b) and (e) of the Rights of Persons with Disabilities Act, 2016.

2. The accusation against the present applicant is on the basis of report lodged by Kishor Deorao Ingale who alleged that on 17/06/2023 he was at his house and at about 10:30 p.m. he was informed by his mother that deceased Ranjit has not returned home, therefore, he called on his mobile phone but the mobile phone was switched off. Thereafter, after sometime they received the information that Ranjit met with an accident, they immediately reached at Plywood Centre, Washim Bypass and found the blood stains at the said spot and also the

motorcycle of the deceased. At about 17 to 18 feet from that spot, the deceased was found lying in the pool of blood and thereafter he approached to the police station and lodged the report that some unknown person has committed the murder of the deceased Ranjit. During investigation, the Investigating Officer has arrested the arrested present applicant and one iron rod is seized at his instance. The CCTV footage is also collected by the Investigating Officer and statements of some witnesses are recorded, on the basis of which it is alleged that there was illicit relations between the deceased Ranjit and one Anita Dinkar Gajbhiye. Present applicant is having the relationship with the said Anita Gajbhiye, and therefore, there was a dispute between the deceased and the present applicant, on that count the present applicant has committed his murder.

3. Learned Counsel for the applicant submitted that entire case is rested on the circumstantial evidence. As far as the evidence of CCTV footage is concerned, wherein only one person is seen dragging another person but the faces of either deceased or the assailant are not visible. He submitted the second circumstance on which the prosecution relied upon is a seizure of the iron rod at the instance of the present applicant. The deceased has sustained the incised wound which are not possible by the iron rod. He pointed out from the postmortem report that injury No.5 Multiple incised wound of size ranging from 1cm x 0.5cm x skin of muscle deep to 2cm x 0.5cm x

muscle deep over the area of 9cm x 7cm 10 in number present over left side of neck anteriorly, margins regular and blood infiltrated and injury No.6 Three incised wound of size 2cm x 0.5cm to 1cm x 0.5cm skin deep respectively present over left angle of mandible, margins regular and blood infiltrated are found. He submitted that these injuries are by the sharp weapon, therefore, the doubt created regarding the occurrence of the incident and there is a possibility of involvement of other persons also. Present applicant is serving in an Army and there is no reason for him to commit the murder of the deceased. Merely, because he was present by obtaining the leave is not sufficient to connect him with the alleged offence. Now, investigation is completed and charge-sheet is filed, further custodial interrogation of the present applicant is not required. In view of that, he be released on bail.

4. *Per contra*, learned Additional Public Prosecutor strongly opposed the application on the ground that the present has obtained the leave from his office as he was posted at Delhi and came to Akola. There was a previous communication between Anita Gajbhiye with whom he is having illicit relations and allegedly the deceased was also having the relations with this woman, and therefore, there was a dispute between them. The presence of the applicant in Akola district shows his involvement in the alleged crime. He further submitted that the weapon i.e. iron rod is seized at the instance of the present applicant. The CCTV footage is also collected

during the investigation. Thus, *prima facie* material is against the present applicant. In view of that, the bail application deserves to be rejected.

5. I have heard learned Counsel for the parties. Perused the investigation papers. Undisputedly, the FIR is lodged against the unknown person. During investigation, the Investigating Officer has seized the iron pipe at the instance of the present applicant. As far as the injuries are concerned, sustained by the deceased which are in the nature of lacerated wound and multiple incised wound as well as three incised wound and the abrasions. Admittedly, multiple incised wound on the neck and the portion of left angle of mandible would not occur due to the assault by the iron rod. Therefore, the contention of the learned Counsel for the applicant has some substance. The CCTV footage is personally seen wherein only two persons were seen. One was dragging to the another. The faces of neither of the deceased nor of the assailant is visible in the said CCTV footage. Besides these circumstances, the prosecution placed reliance on the statement of one Anita Gajbhiye who only states that she is having relationship with the present applicant as well as with the deceased. However, she is not aware about the exact incident. Thus, her statement at this stage is also not helpful to connect the present applicant with the alleged offence. Now, investigation is completed and charge-sheet is filed. Considering the nature of the evidence collected during the investigation, the applicant has made out the case to

grant him bail. Accordingly, I proceed to pass the following order :

(i) The application is allowed.

(ii) The applicant - Sachin s/o Bhagyawan Chakranarayan in connection with Crime No.189/2023 registered with Police Station Old City, Akola, District Akola for the offence punishable under Section 302 of the Indian Penal Code and Section 92(b) and (e) of the Rights of Persons with Disabilities Act, 2016, be released on bail on furnishing P.R. 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.

(iv) The applicant shall attend the trial Court without seeking any exemption unless there are exceptional circumstances.

(v) The Pendrive produced be resealed and handover to the Investigating Officer.

6. The application is disposed of.

(URMILA JOSHI-PHALKE, J.)