



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

CRIMINAL APPLICATION (BA) NO. 1171/2023

Animesh s/o Golu Sanjay Reddy 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. M.V.Rai, counsel for the applicant.

Mrs. Sneha Dhote, APP for the non-applicant/State.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 31/01/2024.

1. The present application is filed by the applicant for grant of bail, in connection with Crime No. 383/2023, registered with Police Station Warora, District Chandrapur for the offences punishable under Sections 302 and 506 of the Indian Penal Code, 1860. The applicant came to be arrested on 20/05/2023.

2. The accusation against the present applicant is on the basis of the report lodged by Ramchandra Manik Lohkare father of the deceased, on an allegation that on 20/05/2023, his son left the house at about 8.30 a.m. and at about 9.30 a.m. he received the message, that his son is lying in an injured condition on Surla Road. Immediately, he rushed to the spot of incident and said that his son had sustained the grievous injuries and was lying in the pool of blood. It also revealed to him that he was assaulted by the present applicant by means of stick, on the basis of said report, the police have registered the crime against the present appellant.

3. Mr. M.V.Rai, learned counsel for the applicant submitted that in a sudden fight and sudden quarrel, there was a hot exchange of words between the present applicant and the deceased, and in the said scuffle, the applicant was given a blow of stick which proved to be fatal and deceased succumbed to the death.

4. He submitted that whatever happened between the present applicant and the deceased, in a sudden fight and sudden quarrel. There was no preparation to commit the offence. The statement of the eye-witnesses itself shows that the applicant has picked up the stick which was lying at the Pan Stall and gave a blow. Now, the investigation is completed and charge-sheet is filed. At the most, the act of the applicant is covered under Section 304 Part-II of the Indian Penal Code, 1860 which covers culpable homicide not amounting to murder.

5. He further submitted that considering the circumstances under which the alleged incident has taken place, the applicant is a young boy of 20 years, and if he is sent behind bar, his entire career will be ruined and prays for releasing him on bail.

6. Learned APP strongly opposed the application on the ground that the applicant got annoyed, as his girlfriend was communicating with the deceased, and therefore, he disclosed to one witness - Sana Rashid Khan that he would kill the deceased, and in pursuance of the same, he has executed the act. Thus, with premeditation and

preparation, the accused has committed the murder of the deceased. There is a prima-facie material against the present applicant and the application deserves to be rejected.

7. Having heard learned counsel for the applicant and learned APP for the State, perused the investigation papers. It reveals that the deceased was found in an injured condition by the informant and therefore, the informant has lodged the report. During the investigation, the investigating officer has recorded the statement of the eye-witnesses which shows that both the deceased and the applicant were on Surla Phata at the Pan Stall, and the hot exchange of words was going in between them. The statement of eye-witenss Pranay Wamanrao Dhoble further shows that initially, they were communicating with each other in front of the Pan Stall near the Forest Gate thereafter, they moved ahead from the forest gate in the premises of the forest, and they started quarreling with each other. He was witnessing the said quarrel from the Pan Stall, suddenly, the applicant ran towards the Pan Stall, picked up the stick from the Pan Stall, and gave a blow of that stick on the head of the deceased. Due to which, the alleged incident has taken place.

8. Thus, prima-facie it appears that in a sudden fight and sudden quarrel, the applicant has took out the stick and assaulted the deceased, whether the act of the present applicant is amounting to culpable homicide and not amounting to murder is a matter of evidence. At this stage, it revealed that in a sudden fight and sudden quarrel and in

a hit of passion, the alleged incident has taken place and the applicant has given a blow of stick on the head of the deceased. Admittedly, the applicant has not taken any undue advantage and has not acted in a cruel and unusual manner. Considering the fact that, the alleged incident has taken place in a hit of passion. Now, the investigation is completed and charge-sheet is filed, the applicant who is pursuing his education, and his further incarceration is not required. In view of that, the application deserves to be allowed by imposing certain conditions. Accordingly, I proceed to pass following order:

- a) The criminal application is **allowed**.
- b) The applicant- **Animesh s/o Golu Sanjay Reddy** is released on bail, in connection with Crime No. 383/2023, registered with Police Station Warora, District Chandrapur for the offences punishable under Sections 302 and 506 of the Indian Penal Code, 1860, on executing P.R. Bond of Rs. 25,000/- with one solvent surety in the like amount.
- c) The applicant shall not enter into the vicinity of Warora, Tq. Warora, District Chandrapur, till the culmination of the trial.
- d) The applicant shall furnish his cellphone number(s) and address with address proof before the investigating officer.

- e) The applicant shall not induce, threat or promise any witnesses who are acquainted with the facts of the present case.

The criminal application is **disposed of**.

[URMILA JOSHI-PHALKE, J.]