



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

CRIMINAL APPLICATION (BA) NO. 456 OF 2024

Niranjandas S/o Shyamrao Sahare

Vs.

State of Maharashtra, Thru. PSO, PS Dahihanda, Tq. Akot, District – Akola

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders.

Mr. A.S. Londhe, Advocate for applicant.

Mr. K.R. Lule, APP for non-applicant/State.

CORAM : SMT. URMILA JOSHI PHALKE, J.

DATE : 08.08.2024

The applicant came to be arrested on 14.04.2019 in connection with Crime No.125/2019 registered with Police Station Dahihanda, Tq. Akot, District – Akola, for the offence punishable under Sections 302 of the Indian Penal Code.

2. The crime is registered on the basis of report lodged by wife of the deceased, on an allegation that present applicant is the real brother of the deceased and there was a dispute between both brothers on account of house which was allotted to their mother in the Awas Yojana and the present applicant was also suspecting that deceased is involved in the 'black magic'. It is further alleged

that on the day of incident i.e. on 13.04.2019 at about 6:00 p.m., present applicant forcefully took the deceased in his house and thereafter, close the door of the house and after 10 to 15 minutes, he alone came out of the house having blood stained cloths on this person. On the basis of investigation carried out by the Investigating Agency, charge-sheet was filed against the present applicant.

3. Heard learned counsel for the applicant submitted that except the statement of one witness, who has seen the present applicant dragging the deceased inside the house, there is no other material to connect the present applicant that the alleged offence. Now, investigation is already completed, charge-sheet is already filed. Further incarceration of the present applicant is not required, in view of that, he be released on bail.

4. Learned APP for the State strongly opposed the said application on the ground that the deceased was eliminated by the present applicant, who is his real brother by suspecting that he is involved in the 'black magic' as well as there was dispute amongst two brothers on account of the share in the house which was allotted to their

mother in the scheme. He submitted that the blood-stained clothes of the present applicant were seized at his instance. The alleged incident also occurred in the present applicant's house. The spot panchnama shows that deceased was found in an injured condition in the house of the present applicant. The statement of witness namely Vyankat Nagaji Ingole also shows that he has witnessed the present applicant, dragging the deceased inside the house and thereafter, only applicant came out of the house having blood-stained clothes on his person and in his presence, the present applicant kept the said blood-stained clothes in one stream. Thus, there is a direct evidence to connect the present applicant with the alleged offence. If the applicant is released on bail, he would tamper the prosecution evidence, in view of that, application deserves to be rejected.

5. After hearing the learned counsel for the applicant and learned APP for the State, perused the investigation papers, the crime is registered on the basis of report lodged by the wife of the deceased. On an allegation that on the day of incident i.e. 13.04.2019 when she was searching to her husband, she came in front the house of the present applicant. At the relevant time, the present applicant was seen

coming out of the house, she entered the house of the present applicant and saw that, her husband was lying in the pool of blood. On the basis of her report, police have registered the crime.

6. During investigation, the investigating officer has visited the alleged spot of incident. The spot of incident was the house of the present applicant. Blood stained chadar and some blood stains are collected from the house. The statement of the present applicant was also recorded under Section 27 of the Indian Evidence Act and at his instance, the blood stained chadar and stone was seized by the investigating agency from the spot of incident. The dead body of the deceased was referred for the postmortem examination. During postmortem examination, the six injuries are found on the person of the deceased, death of the deceased was due to the head injury. The internal injury sustained by the deceased shows that he had sustained depressed comminuted fracture involving frontal and parietal bones. There are fractures on the scalp as well as the occipital bone. As well as the injuries are noted on the brain also and cause of the death ascertained by the Medical Officer is head injury. During investigation, the investigating officer has also recorded the statement of Vyankat Ingole

from whose statement reveals that he has seen the present applicant, dragging the deceased forcefully in his house. Thereafter, dead body of the deceased was found inside the house. The present applicant was also seen by him, coming out of the house having blood stained on his clothes and he has also witnessed the present applicant having the blood stained clothes on his person. Thus, there is a direct evidence to connect the present applicant with the alleged offence. Considering the nature of the offence as well as the punishment provided for the same and *prima faice* case is made out against the present applicant. Hence, the bail application deserves to be rejected. Accordingly, I proceed to pass the following order :

ORDER

The bail application is rejected.

(SMT. URMILA JOSHI PHALKE, J)