



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

CRIMINAL APPLICATION (BA) NO. 499 OF 2024

Shaikh Anis Shaikh Bashir

Vs.

The 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

Mrs. Sapna S. Jadhav, Advocate for applicant.
Shri S. C. Joshi, APP for non-applicant/State.

CORAM :- M. W. CHANDWANI, J.

DATED :- 26.08.2024

Heard.

2. The applicant seeks bail in Crime No. 228/2022 registered with Police Station, Dharni for the offence punishable under Sections 302, 307 and 109 read with 34 of the Indian Penal Code (IPC).

3. The prosecution's case, which reveals from the charge-sheet, is that the deceased went to the house of his uncle, the applicant, to ask as to why he abused his younger brother. The applicant gave a wooden stick blow on the head of the deceased. At that time, wife of the applicant asked co-accused namely Skaikh Shoyab Shaikh Anis, son of the present applicant, to bring a knife to kill the deceased. Co-accused- Shoyab Shaikh gave knife blow on abdomen and knee of the applicant. Initially, the offence under Sections 307 and 109 read with 34 of the

IPC came to be registered against the present applicant and other co-accused. The deceased was admitted in the hospital for 17 days for treatment of injuries. Thereafter, he was referred to the Government Medical College and Hospital at Nagpur, where he died due to septicemia following perforation peritonitis in an operated case of abdomen stab injury.

4. It is submitted by the learned counsel for the applicant that the death of the deceased was not a direct result of the assault. She further submitted that as far as the applicant is concerned, he assaulted the deceased by a wooden stick on his head and the resultant injury caused is a simple injury and that is not the cause of death. The fatal assault is not attributed to the present applicant. According to her, the charge-sheet is already been filed and the applicant is in incarceration since more than two years.

5. *Per contra*, the learned APP for the State vehemently submitted that it is the present applicant, because of him, the alleged incident occurred. He actively involved in the incident rather he assaulted the deceased by way of wooden stick from which common intention is to be gathered. According to him, the material available on record goes to suggest that there is *prima facie* case against the applicant.

6. Evidently, the record show that the applicant assaulted the deceased by a wooden stick on his head.

The medico-legal case paper goes to show that the deceased suffered simple injury on his parietal region. The post-mortem report shows that the deceased died due to septicemia after he was operated for abdomen stab injury. The material on record indicates that the fatal assault is given to the deceased by the son of the applicant. Whether the applicant share common intention to kill the deceased is a question, which can be gone into during the trial. The charge-sheet has already been filed and there is no antecedent of the applicant. Nothing is place on record to suspect that the applicant will flee away from justice.

7. Considering the role played by the present applicant in the crime alongwith the fact that he is in custody for last more than two years, a case is made out of grant of bail. Hence, I proceed to pass the following order:-

- i) The application is allowed.
- ii) The applicant- Shaikh Anis Shaikh Bahir be released on bail, in Crime No. 228/2022 registered with Police Station, Dharni for the offence punishable under Sections 302, 307 and 109 read with 34 of the IPC, on he executing a PR bond of Rs.50,000/- (Rs. Fifty Thousand) with one solvent surety in the like amount.
- iii) The applicant shall not directly or indirectly tamper with the prosecution's evidence.

iv) Since the family of the deceased and the family of present applicant are neighbors, it is hereby directed that the applicant shall not enter into the jurisdiction of Police Station, Dharni, District Amravati, until further orders.

(M. W. CHANDWANI, J.)