



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

CRIMINAL APPLICATION (BA) NO.654 OF 2024
(Mohd. Adil @ Shahrukh Abdul Gaffar 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. A.D. Sahoo, Advocate for the applicant.
Mr. N.R. Rode, APP for the State.

CORAM:- URMILA JOSHI-PHALKE, J.
DATED :- AUGUST 9, 2024.

By this application, the applicant is seeking bail as he was arrested on 01/10/2019 in connection with Crime 386/2019 registered with Police Station Paratwada, District Amravati for offence punishable under sections 302, 143, 147, 148, 201 read with Section 149 of the Indian Penal Code and Section 135 of the Maharashtra Police Act.

2. The crime is registered on the basis of report dated 30/09/2019, lodged by Mr. Shubham Nandlal Nandwanshi, who is an eye witness to the incident. As per the allegation that his maternal brother Mr. Shyam Kholapure, who is also called as Shyama Pahalwan was habituated to gambling and between 11.00 a.m. to 11.15 a.m. on 30/09/2019, he went to the open space opposite the Timber Depot Cooperative Bank situated at Gurunanak Nagar, to play cards. At the relevant time Mohd. Sajid Hela, Javed, present applicant and other co-

accused also came there to gamble. The informant had been there to meet his friend and while returning, he witnessed that the present applicant was assaulting the deceased by giving the repeated blow by knife whereas the other co-accused Sajid and Javed had sickles and they were also assaulting the deceased. As the informant got scared he left the spot of incident and he asked one of his friend to visit the spot who informed the informant that deceased Shyama Pahalwan is no more.

3. During investigation, the investigating agency has recorded the statements of the eye witnesses, on the basis of which the charge-sheet was filed against the present applicant and other co-accused.

4. I have heard learned Counsel for the applicant who submitted that the applicant is behind bar since the date of arrest. The liberty was granted to the present applicant if trial is not commenced and therefore, he filed this application for grant of bail. He submitted that other co-accused is already released on bail. Considering that the trial is not commenced and the other co-accused is released on bail, there is change in circumstance. In view of that, he be released on bail.

5. Learned APP strongly opposed the application and invited my attention toward the earlier order passed by this Court in Criminal Application (BA) No.530 of 2021

dated 15/09/2021 and submitted that while rejecting the earlier application at the relevant time also, the Court has considered the bail granted to the co-accused and observed that the co-accused who is released on bail are certainly not similarly situated. It is further observed by this Court that the post mortem report shows that as many as thirteen stab wounds are sustained by the deceased and many on vital organs like neck and chest and thereafter rejected the application. In view of that, there is no merits in the application and the application deserves to be rejected.

6. I have heard learned Counsel for both the parties. Perused the investigation papers from which it reveals that there are four eye-witnesses who have consistently stated regarding the role of the applicant. The eye-witnesses statement shows that it is the present applicant who have given repeated blows on the person of the deceased. The post mortem report shows that as many as thirteen stab wounds and many of them are on the neck and chest which are on the vital part of the body. The incriminating weapon is also recovered at the instance of the present applicant which was kept in a hidden condition beneath of the cot in the house of the applicant. The blood stained cloths of the applicant are also seized. Thus, considering the injuries sustained by the deceased and repeated blows given by the present applicant on the person of the deceased shows his intention to eliminate

the deceased. Thus, there is a prima facie material against the present applicant to show his involvement in the alleged offence. In view of that, the application deserves to be rejected. As far as the commencement of the trial is concerned, the trial Court shall expedite the trial and shall make every endeavour to dispose of the trial at the earliest.

7. The application is rejected accordingly.

(URMILA JOSHI-PHALKE, J.)

**Divya*