



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

CRIMINAL APPLICATION (BA) NO.662 OF 2024

(Rashid @ Riyasat s/o Nazakat Ali 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.
Mrs. H.N. Prabhu, APP for the State.

CORAM:- URMILA JOSHI-PHALKE, J.

DATED :- AUGUST 12, 2024.

By this application, the applicant is seeking bail as he was arrested on 20/10/2023 in connection with Crime No.774/2023 registered with Police Station Yashodhara Nagar, Nagpur for the offence punishable under Sections 302, 324 of the Indian Penal Code.

2. The crime is registered on the basis of report lodged by the brother of the deceased on an allegation that on 19/10/2023 he along with his brother had been to the temple. At the relevant time, his brother Jabir and Sabir came there. They both were under the influence of liquor and there was hot altercations of the words between them and in that altercations they have caused damage to the vehicles as well as the vehicle of the present applicant. On inquiry by the present applicant that why his vehicle was damaged again there was a dispute between them, on that present applicant brought the wooden log and gave a blow of said wooden log on the head of the deceased. Due to which deceased has

sustained the grievous injuries and succumbed to the death. During investigation, the Investigating Officer has recorded the statements of the independent witnesses who allegedly are eye-witnesses from which it revealed that as the deceased was holding the wooden log and he was attempted to gave a blow on the person of the present applicant. Present applicant snatched the said wooden log and gave a blow on the head of the deceased. After recording the statement and after completion of investigation, the charge-sheet is filed.

3. Learned Counsel for the applicant submitted that as far as the statement of the informant is concerned who is interested witness which is contradicted by the eye-witnesses which shows that it was the deceased who brought the wooden log and was about to assault the present applicant and to save himself he has snatched the wooden log and gave a blow in the scuffle. Thus, there was no intention to cause death of the deceased. Whatever happened is in the sudden fight and sudden quarrel, and therefore, the case covers under the exception. In view of that, the applicant be released on bail.

4. Learned APP strongly opposed the application on the ground that during investigation the statements of the witnesses are recorded, postmortem notes are collected from which it reveals that the blow was given on the vital part of the body. The deceased has sustained 11

injuries and there are internal injuries also which caused the death of the deceased. Considering the nature of the evidence and the circumstances under which the alleged incident has taken place, the application deserves to be rejected

5. I have heard learned Counsel for both the parties. Perused the investigation papers. From the recitals of the FIR it reveals that the deceased as well as his brother Jabir were under the influence of liquor and they were quarrelling with each other. During the said quarrel they have caused the damaged to the vehicles including the vehicle of the present applicant. After seeing the vehicle was damaged, present applicant enquired with the deceased on that deceased tried to assault the applicant, therefore, present applicant has snatched the wooden log from his hand and gave a blow by the said wooden log on the head, and therefore, he sustained the injuries and the death is caused. He submitted that considering the circumstances under which the alleged incident has taken place which sufficiently shows that there was no intention. At the most the knowledge can be attributed to the present applicant. There is no dispute that the death of the deceased is caused due to the head injury. During investigation, the Investigating Officer has recorded the statement of the brother of the deceased as well as the various witnesses. Even considering the statement of the brother of the deceased it reveals that the deceased was under the influence of liquor and caused the damage to

the vehicle of the present applicant. The spot panchnama and vehicle damage panchanama also substantiates the same. The statement of the eye-witnesses is also recorded from which it reveals that the deceased was holding the wooden log in his hand and he was about to give a blow on the person of the present applicant as present applicant enquired with him why he has caused the damage to his vehicle and present applicant has snatched the said wooden log and gave a blow. Thus, as far as whether there was an intention to cause death or only there was a knowledge is a matter of evidence. At this stage, considering the circumstances under which the alleged incident has taken place, admittedly it would cover under the exception. Now, the investigation is completed and charge-sheet is filed, further incarceration is not required. In view of that, the application deserves to be allowed. Accordingly, I proceed to pass the following order:

- (i) The application is allowed.
- (ii) The applicant – Rashid @ Riyasat s/o Nazakat Ali in connection with Crime No.774/2023 registered with Police Station Yashodhara Nagar, Nagpur for the offence punishable under Sections 302, 324 of the Indian Penal Code, be released on bail on executing PR. Bond in the sum of Rs.25,000/- with one solvent surety in the like amount.

(iii) The applicant shall not enter in the jurisdiction of Yashodhara Nagar, Nagpur police station, till culmination of the trial.

(iv) The applicant shall attend the concerned police station once in a month i.e. 1st day of every month and the Police Officer shall record their presence. The applicant shall cooperate with the investigating agency.

(v) The applicant shall not leave the jurisdiction of Nagpur District Court without prior permission of the Court.

(vi) The applicant shall furnish his Cell phone number and address and shall furnish the names of his two relatives with their address proof before the investigating agency.

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

(viii) The applicant shall attend the proceedings before the trial Court regularly without seeking any exemption unless there are exceptional circumstances.

6. The application is disposed of.

(URMILA JOSHI-PHALKE, J.)