



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

CRIMINAL APPLICATION (BA) NO. 855 OF 2024

Pandit S/o. Jambuvantrao Rathod

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

Shri Vivek Awchat, Advocate for applicant.
Shri D. V. Chauhan, Senior Advocate & Public Prosecutor a/w. Mrs.
Mukta Kavimandan, APP for non-applicant/State.

CORAM :- M. W. CHANDWANI, J.

DATED :- 16.10.2024

Heard.

2. By the present application, the applicant is seeking bail in connection with Crime No. 63/2023 registered with Police Station, Darati, Tahsil Mahagaon, District Yavatmal for the offence punishable under Sections 302, 504 & 506 r/w. 34 of the Indian Penal Code.

3. The prosecution story unfolded is that on 16.04.2023, deceased- Prakash Rathod alongwith his family members including his wife- Savita Rathod (the complainant) went to the field, which is the spot of the incident and claimed that the field belongs to them. Finding the applicant and other co-accused in the field, the deceased asked the applicant and other co-accused to

leave the field as it belongs to him. An altercation took place there between the deceased and other co-accused including the applicant. The brother of the applicant- Kundalik took out knife from his pocket and assaulted the deceased towards right side of his stomach. The applicant also assaulted the deceased on his head by means of an iron rod. When the deceased tried to run away from the spot, co-accused- Kundalik followed him and gave knife blows on his stomach. The deceased was moved to the hospital thereafter, he succumbed to the injuries. On complaint of the wife of the deceased, the aforesaid offence came to be registered against the applicant and other co-accused.

4. It is submitted by Shri Vivek Awchat, learned counsel for the applicant, that the other co-accused have been released by this Court vide order dated 01.09.2023. The fatal blow has been attributed to the co-accused- Kundalik. The allegations against the present applicant is that he gave one blow by an iron rod on the head of the deceased and only contused lacerated wound (CLW) was caused by the said assault. According to him, the applicant was arrested on 16.04.2023 and since then he is in custody. He submitted that the applicant is ready to abide by any condition if he is released on bail.

5. *Per contra*, Shri D. V. Chauhan, learned Senior Advocate and the Public Prosecutor assisted by Mrs. Mukta Kavimandan, learned APP for the non-

applicant/State submitted that active role has been played by the applicant in commission of the crime. His application stand rejected by the Trial Court after considering his role. According to him, there is sufficient material available on record, which connect the applicant with the crime therefore, the application be rejected.

6. Perusal of the charge-sheet goes to show that on the day of the incident, the deceased alongwith his wife went to the field, where the applicant and other co-accused were already there. They quarreled with the applicant and other co-accused as the deceased claimed to be the owner of the field and asked the applicant and other co-accused to leave the field. It appears that five stab injuries, by knife on the stomach of the deceased, have been assigned to the co-accused- Kundalik. The role assigned to the present applicant is that he gave only one blow of iron rod on the head of the deceased. Thus, *prima facie*, it appears that fatal assault is attributed to other co-accused.

7. Considering the role assigned to the present applicant; period of custody coupled with the fact that trial is yet to begin, I am of the view that a case is made out for grant of bail on certain stringent conditions. Hence, I proceed to pass the following order:-

- i) The application is allowed.
- ii) Applicant- Pandit S/o. Jambuvantrao Rathod be released on bail, on he executing a PR bond of

Rs.50,000/- (Rs. Fifty Thousand) with one solvent surety in the like amount in connection with Crime No. 63/2023 registered with Police Station, Darati, Tahsil Mahagaon, District Yavatmal for the offence punishable under Sections 302, 504 & 506 r/w. 34 of the Indian Penal Code.

iii) The applicant shall not visit the agricultural field where the alleged incident occurred.

iv) The applicant shall not induce, give threat and pressurize any witnesses, who are connected with the alleged crime.

(M. W. CHANDWANI, J.)