



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

CRIMINAL APPLICATION (BA) NO.67 OF 2025

Rahul s/o Shankar Nanhe

Vs.

State of Maharashtra, through Police Station Officer, Police Station,
Ralegaon, District Yavatmal

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. Madhur A. Deo, Counsel for the applicant.

Ms. M. A. Barabde, APP for the non-applicant / State.

CORAM : URMILA JOSHI-PHALKE, J.

DATED : 28/02/2025

1. The applicant came to be arrested in connection with Crime No.30(31)/2024 registered with Police Station Ralegaon District Yavatmal, registered initially under Section 307 and subsequently converted into 302 and 324 of the Indian Penal Code.

2. Heard learned Counsel for the applicant who submitted that the crime is registered on the basis of report lodged by Pandurang Nanaji Nandurkar on an allegation that he is residing along with his family members and deceased Sumit is his son, who is assaulted by the present applicant on 14.02.2024 at about 10.30 p.m. by means of dagger on his chest and other parts of the body. He immediately shifted to the hospital, but during

treatment, he succumbed to the death. On the basis of the said report police have registered the crime. Learned Counsel for the applicant invited my attention towards the statement of Chanda Uike, which suggests that there was instigation at the hands of the deceased and due to the sudden provocation the alleged incident has taken place. The another ground he raised is that there is non-compliance of Section 50 of the Code Criminal Procedure (for short Cr.P.C.) of the Code of Criminal Procedure and therefore it is a violation of Article 22(1) of the Constitution. He submitted that the Hon'ble Apex Court recently dealt with this issue in the case of **Vihaan Kumar Vs. State of Haryana and another** in **Special Leave Petition No. 13320/2024** wherein the Hon'ble Apex Court held that once the arrest is held to be vitiated, the person arrested cannot remain in custody even for a second. Thus, he submitted that considering that there is non-compliance of Section 50 of Cr.P.C., which is violation of Section 22(1) of the Constitution and the alleged incident has taken place due to sudden provocation at the hands of the deceased. Now, the investigation is already completed and charge-sheet is filed, further incarceration of the present applicant is not required in view of that, he be released on bail.

3. Learned APP strongly opposed the said application and submitted that the applicant has used the weapon like dagger and given the repeated blows

on the person of the deceased, multiple stab wounds were sustained by the deceased and he succumbed during the treatment. Thus, there is a preparation as well as the intention to cause the death of the deceased. Considering the *prima facie* case, the application deserves to be rejected.

4. After hearing both sides and on perusal of the investigation papers, it reveals that the involvement of the present applicant is in the alleged offence. The statement of the witness Chanda Uike also discloses that as the present applicant was visiting her house the deceased was teasing the applicant that he is having affair with the said lady and on that count there was a quarrel between them and the alleged incident has taken place. Thus, the contention of the learned Counsel for the applicant is that there was provocation at the hands of the deceased, and therefore, the incident has taken place reveals some substance from the statement of the said witness.

5. The another ground raised by the learned Counsel for the applicant is that there is non-compliance of Section 50 of Cr.P.C. I have perused the arrest panchanama as well as entire investigation papers. Admittedly, in view of Section 50 of Cr.P.C. the grounds of the arrest are not communicated along with full particulars to the present applicant. Recently the Hon'ble Apex Court

in **Vihaan Kumar Vs. State of Haryana and another** (referred supra) has considered this issue by referring the earlier Judgment of **Lallubhai Jogibhai Patel v. Union of India reported in (1981) 2 SCC 427**, wherein the Hon'ble Apex Court held that "Thus, the requirement of informing the person arrested of the grounds of arrest is not a formality but a mandatory constitutional requirement. Article 22 is included in Part III of the Constitution under the heading of Fundamental Rights. Thus, it is the fundamental right of every person arrested and detained in custody to be informed of the grounds of arrest as soon as possible. If the grounds of arrest are not informed as soon as may be after the arrest, it would amount to a violation of the fundamental right of the arrestee guaranteed under Article 22(1). It will also amount to depriving the arrestee of his liberty. The reason is that, as provided in Article 21, no person can be deprived of his liberty except in accordance with the procedure established by law. The procedure established by law also includes what is provided in Article 22(1). Therefore, when a person is arrested without a warrant, and the grounds of arrest are not informed to him, as soon as may be, after the arrest, it will amount to a violation of his fundamental right guaranteed under Article 21 as well. In a given case, if the mandate of Article 22 is not followed while arresting a person or after arresting a person, it will also violate fundamental right to liberty guaranteed under Article 21, and the

arrest will be rendered illegal. On the failure to comply with the requirement of informing grounds of arrest as soon as may be after the arrest, the arrest is vitiated. Once the arrest is held to be vitiated, the person arrested cannot remain in custody even for a second."

6. In view of the above observation also, the applicant has made out a case for grant of bail. In view of that, I proceed to pass following order:

ORDER

- (i) The application is allowed.
- (ii) The applicant **Rahul s/o Shankar Nanhe** shall be released on bail in connection with Crime No.30(31)/2024 registered with Police Station Ralegaon, District Yavatmal, for the offence punishable under Sections 302, 307 and 324 of the Indian Penal Code, on executing PR Bond in the sum of Rs.25,000/- with one solvent surety of the like amount.
- (iii) The applicant shall not enter into the vicinity of village Ramtirth, Taluka Ralegaon, till culmination of the trial.
- (iv) The applicant shall attend the concerned Police Station once in a month on 1st of every month between 10.00 a.m. to 1.00 p.m. and the Police Station Officer shall record his presence.
- (v) The applicant shall not leave the jurisdiction of Yavatmal District without prior permission of the District Court Yavatmal.

(vi) The applicant shall attend the proceeding before the Sessions Court without seeking any exemption unless there are exceptional circumstances.

The application is disposed of.

(URMILA JOSHI-PHALKE, J.)