



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

CRIMINAL APPLICATION (BA) NO.330 OF 2025

Kisan s/o Sakharam Dukre

Vs.

State of Maharashtra, through Police Station Officer, Jaulka,
District Washim

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

Court's or Judge's orders

Mr. A. M. Jaltare, Counsel for the applicant.
Mr. M. K. Pathan, APP for non-applicant/State.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 03/04/2025

1. The applicant came to be arrested on 12.10.2023 in connection with Crime No.302/2023 registered with Police Station Jaulka, District Washim for the offence punishable under Sections 143, 147, 148, 302, 504 read with Section 149 of the Indian Penal Code.

2. The crime is registered on the basis of report lodged by Shivaji Uttam Sapate on an allegation that on 11.10.2023 at about 8.30 a.m. his brother Gajanan Sapate took the Soybean and Soybean sacks were placed near the Maruti temple, so the informant went there with Chitra Gajanan Sapate who followed him. At that time, the present applicant and the other co-accused along with the other family members were sitting near the temple.

The complainant alleged that Narayan Dukre was holding one iron rod in his hand and he was assaulting his brother Gajanan Sapate. As far as the present applicant is concerned, it is alleged that he was also holding a stick and they were assaulting the Gajanan and others were assaulting by fist and kick blows. On the basis of the said report, police have registered the crime against the present applicant.

3. Heard learned Counsel for the applicant who submitted that as far as the merit of the matter is concerned, there is contrary evidence collected by the investigating agency. As per the allegation, the applicant has assaulted by means of stick, there were no blood stains on stick. The blood stains are found on the iron rod which is not assigned to the present applicant. It is further submitted that if so many persons have assaulted the deceased, there would be multiple injuries on the person of the deceased, but only four injuries are seen on the person of the deceased. He also invited my attention towards the statements of the eye witnesses and submitted that the entire contradictory statements are made by the eye witnesses. Now the investigation is completed and charge-sheet is filed, his further incarceration is not required. In view of that, he be released on bail. The another ground is raised by the learned Counsel for the applicant that there is a delay in trial and therefore, the right of the present applicant enshrined under Article 21 of the Constitution is

affected. In view of that, he prays for releasing the accused on bail.

4. Learned APP strongly opposed for the same and submitted that the earlier bail application is already disposed of by this Court on merits. The observation of this Court specifically shows that role of both applicants reveals in the actual assault and therefore, the disinclination is shown. As far as the merit of the matter is concerned, he submitted that the recitals of the FIR and the statements of various eye witnesses disclose the involvement of the present applicant in the alleged offence. The weapon of the offence is also recovered and referred for the medical opinion. The opinion shows that the injuries are possible by the said weapon. The death of the deceased is caused due to the head injury. Considering all these aspects, the application deserves to be rejected.

5. After hearing both sides and on perusal of the investigation papers, it reveals that there was a previous enmity on account of the agricultural land between the two families on that count the alleged incident has taken place. As per the recitals of the FIR, the present applicant who was holding the stick in his hand and the other co-accused also holding the weapons in their hands, assaulted the deceased due to which the deceased fallen on the veranda of the temple, sustained the injuries and succumbed to the

death. During investigation, the Investigating Officer has drawn the spot panchanama wherein the blood stains are noted and blood stained soil was also seized by the Investigating Officer. On the basis of the memorandum statement of the present applicant and other co-accused, the weapons are recovered. The memorandum of the co-accused shows that total five injuries were found on the person of the deceased. On internal examination, the Medical Officer has seen the injuries on the internal part of the brain i.e. hematoma of size 6 cm X 4 cm over parieto-occipital region under scalp and of size 5 cm X 4 cm over left parietal region under scalp and depressed communicated fracture present over parieto-occipital bone 3 cm X 2 cm area is depressed with evidence of linear fracture extending laterally 5 cm on both sides. Thus, from the nature of the injuries, the intention of the applicant and the co-accused can be gathered. The death of the deceased is due to the head injury. Thus, considering the entire investigation papers, admittedly, *prima facie* case is made out against the present applicant. It is pertinent to note that though there was a dispute between the present applicant and the family of the deceased, but no remorse was shown at the time of the incidents towards the deceased. Thus, as far as the merit of the matter is concerned, *prima facie* case is made out against the present applicant.

6. Another ground raised by the applicant is there is a delay in trial, therefore the status report from the concerned, District Judge - 1 and Additional Sessions Judge, Washim was called which shows that on maximum time either the accused who were released on bail were not present or exemption was sought thereafter, various applications including the application for discharge were filed and time was consumed in deciding the said application. It particularly states that on various occasions the accused, who are family members of the present applicant have filed the exemption application and therefore, the Court could not frame charge, and therefore, the framing of charge is delayed. Thus, it is apparent that the prosecution is not only at fault to delay the trial, but it is the accused who have also contributed for the delay in trial. This aspect is considered by the Hon'ble Apex Court in the case of **X Vs. State of Rajasthan & Anr. in Special Leave Petition (Criminal) No. 13378 of 2024 decided on 27.11.2024** wherein it is observed that it is only in the event if the trial gets unduly delayed and that too for no fault on the part of the accused, the Court may be justified in ordering his release on bail on the ground that right of the accused to have a speedy trial has been infringed.

7. In the light of the above observation, the application deserves to be rejected. Accordingly, I proceed to pass following order:

(6)

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ORDER

The application is rejected.

(URMILA JOSHI-PHALKE, J.)

Sarkate