



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

CRIMINAL APPLICATION (BA) NO. 357 OF 2025

Kundlik 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

Mr. A.S. Mardikar, Senior Counsel with Mr. V.D. Awchat, counsel for applicant.
Mr. Ganesh Umale, APP for non-applicant/State.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 16/06/2025.

1. The applicant came to be arrested on 16/04/2023 in connection with Crime No. 63/2023 registered with Police Station Darati, Tah. Mahagaon, District Yavatmal for the offence punishable under Section 302, 504, 506 read with Section 34 of the Indian Penal Code, 1860.

2. The crime is registered on the basis of a report lodged by wife of the deceased on an allegation that on 16/04/2023 at about 11.00 a.m., she, along with her husband and other family members, had been to the agricultural field at Gram Amdapur, where the present applicant, his brother, and one Sulabai Datta Jadhav were present. There was a hot exchange of words between them on account of ownership of the agricultural field, and during that incident, present applicant allegedly gave a blow of knife on the person of the deceased - Prakash Rathod, and other co-accused assaulted him by means of iron rod. Due to which, the deceased has sustained grievous injuries and succumbed to the death. On the basis of the said report,

police have registered the crime against the present applicant.

3. Heard learned Senior Counsel for the applicant, who submitted that the recitals of the FIR itself shows that the deceased, along with other family members, came at the spot, which is the agricultural field which by the order of Tahsildar is in the possession of the present applicant and his family members. On that count, there was a scuffle between both of them, and in that scuffle, the deceased has sustained the injuries. He also pointed out that present applicant has also sustained the injuries. He submitted that, admittedly, the agricultural field on account of which the alleged incident has occurred is in possession of the present applicant. The deceased and other prosecution witnesses were the aggressors, and to protect the property, the present applicant was there, and in the scuffle, the alleged incident has taken place. He submitted that, in fact, the informant and her husband and other prosecution witnesses were the aggressors. Thus, the right of private defence accrues to the present applicant. Considering now, the investigation is already completed and the charge-sheet is already been filed, further incarceration of the present applicant is not required, and there are no criminal antecedents against the present applicant. In view of that, the applicant be released on bail.

4. Learned APP strongly opposed the said application and submitted that the present applicant was holding knife

along with him and gave repeated blows on the person of the deceased. Due to which, deceased has sustained the injuries and succumbed to the death. Thus, intention is attributed to the present applicant. Considering the gravity of the offence, the application deserves to be rejected.

5. After hearing both sides and on perusal of the investigation papers, especially the recitals of the FIR and the statements of the eyewitnesses, including the statement of Savita Prakash Rathod, it reveals that there was a dispute pending between the present applicant and the informant and other prosecution witnesses. On the day of the incident also, they had been to the agricultural field when the applicant and his brother were cultivating the land. The scuffle took place between them, and in that scuffle, the deceased has sustained the injuries due to the knife blows given by the present applicant.

6. Learned Senior Counsel has placed on record the order of the Tahsildar, which shows that possession of the said land was with the father of the present applicant. The observation of the Tahsildar in the said order itself shows that the Talathi report, and the statement of the various witnesses and documentary evidence discloses that Jambuvantrao Bhiku Rathod, who is the father of the applicant, is in possession of the said land, and therefore, he observed that he is the possessor of the said land. As the informant and other prosecution witnesses also claimed the right and therefore, they went at the agricultural field. Thus,

it is apparent that the prosecution witnesses and the informant were the aggressors, and while protecting the property, the alleged incident has taken place.

7. Moreover, the statement of the witnesses itself reveals that, while protecting the right of the property, the applicant has used the said weapon and caused the injuries to the deceased. Considering the fact that investigation is already completed, charge-sheet is filed, and the circumstances under which the alleged crime has taken place. The submission of the learned counsel that right of private defence is available to the present applicant, in view of that, the application deserves to be allowed. Accordingly, I proceed to pass the following order.

- a] The criminal application is **allowed**.
- b] The applicant- ***Kundlik s/o Jambuvantrao Rathod***, shall be released on bail in connection with Crime No. 63/2023 registered with Police Station Darati, Tah. Mahagaon, District Yavatmal for the offence punishable under Section 302, 504, 506 read with Section 34 of the Indian Penal Code, 1860 on executing PR. Bond of Rs. 50,000/- with one solvent surety in the like amount.
- c] The applicant shall not enter into the vicinity of village Chilli, Tah. Umarkhed, District Yavatmal till culmination of the trial.

- d] The applicant shall attend the proceedings before the trial Court without seeking any exemption unless there are exceptional circumstances.
- e] The applicant shall not induce threat or promise any witnesses who are acquainted with the facts of the case.

Criminal application is **disposed of**.

[URMILA JOSHI-PHALKE, J.]