



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

CRIMINAL APPLICATION (BA) NO.532 OF 2025

Naresh Shamrao Urkade

Vs.

State of Maharashtra, through Police Station Officer, Police Station Dhanaj
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. Inamul Haque, Counsel for the applicant.
Ms. S. S. Dhote, APP for non-applicant / State.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 01/07/2025

1. The applicant came to be arrested on 19.02.2024 in connection with Crime No.60/2024 registered with Police Station Dhanaj, District Washim for the offence punishable under Sections 302 and 452 read with Section 34 of the Indian Penal Code.

2. As per the allegation levelled against the present applicant on the basis of the report that the deceased and his nephew by name Shama aged 11 years were residing at the house of the informant. The applicant is residing in the neighbourhood of the informant and there was a dispute on account of cultivating the agricultural land. On the day of incident, the present applicant along with the other co-accused came inside the house of the informant and assaulted the deceased and caused the death of

the deceased. 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 the entire case is based on the statement of a child witness, who is not a competent witness and except that statement, there is no other material to connect the present applicant with the alleged offence. He further submitted that there was no provision of electricity and therefore, it is difficult for the eye witness to identify the present applicant. Now the investigation is completed and charge-sheet is filed and further incarceration of the present applicant is not required.

4. Learned APP strongly opposed the said application and invited my attention towards the memorandum statement of the accused and submitted that besides the statement of the eye witness, who is a child witness, there are other evidence in the nature of the recovery of the weapon and at the instance of the present applicant and his blood stained clothes. She also invited my attention towards the spot panchnama and pointed out that there was a facility of electricity available in the house and prays for rejection of the application.

5. On hearing both sides and on perusal of the investigation papers, it reveals that the alleged

incident was witnessed by the child witness, who is aged about 11 years. Whether he is a competent witness or not, is a matter of trial. At this stage, the eye witness who is a sole eye witness, who specifically narrated the role of the present applicant which is substantiated by the circumstantial evidence like the recovery of the blood stained clothes and the blood stained weapon, at the instance of the present applicant. Considering the *prima facie* material against the present applicant and the injury sustained by the deceased which are chop wound on left upper side of neck i.e. on vital part of the body and crush injury on frontal jaw shows the intention of the applicant to commit the homicidal death of the deceased. In view of that, the application deserves to be rejected. Accordingly, I proceed to pass following order:

ORDER

The application is rejected.

(URMILA JOSHI-PHALKE, J.)