



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

CRIMINAL APPLICATION (BA) NO. 596 OF 2024

Om S/o Gajanan Butle

.Vs.

State of Maharashtra, thr. PSO, PS Arni, District Yavatmal

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions Court's or Judge's orders.
and Registrar's Orders.

Mr R.M. Daga, Advocate for the applicant.

Ms Mrunal Barbade, APP for the State.

CORAM : G.A. SANAP, J.

DATE : 10.01.2025

Heard.

2. The applicant, who has been arrayed as an accused No.2 in crime bearing No.750/2023, registered at Arni Police Station, District Yavatmal for the offences punishable under Sections 302, 341 read with 34 of the Indian Penal Code has made this application for bail under Section 439 of the Code of Criminal Procedure.

3. Learned Advocate for the applicant/accused No.2 submitted that as far as accused No.2 is concerned, he did not participate in the assault on the deceased. Learned Advocate took me through the record and

pointed out that only role attributed to him is that when the informant wanted to rescue the deceased from accused No.1 he pelted bricks at him. Learned Advocate submitted that the main role of inflicting knife blows has been attributed to accused No.1. It is submitted that the material placed on record is not sufficient to *prima-facie* show that accused No.2 participated in the offence in furtherance of common intention with accused No.1. It is submitted that accused No.2 is in jail for last one year and two months. It is pointed out that CA reports are not yet received. Charge is not framed. It is submitted that in this factual situation, further incarceration of accused No.2, is not necessary. It is submitted that accused No.2 is ready to abide by the conditions that may be imposed by the Court.

4. Learned APP submitted that evidence compiled in the charge-sheet is sufficient to *prima-facie* establish the sharing of common intention by accused Nos.1 and 2. Learned APP submitted that accused No.1 inflicted 25 stab wounds. Learned APP submitted that the murder was pre-planned and brutal. It is submitted that if the accused No.2 released on bail, then he would tamper with the prosecution evidence as well as influence the

witnesses.

5. I have gone through the record. The informant is eyewitness to the incident. In his report, he has categorically stated the role of accused No.1 and role of accused No.2. The main assault was mounted by accused No.1. Accused No.2 accompanied accused No.1 on the motorcycle. As per the report, accused No.2 did not inflict any blow or cause any injury to the deceased. It is stated in the report that when the informant went to rescue the deceased, he pelted bricks at him. It is true that accused No.2 has been prosecuted for the offence of murder with the aid of Section 34 of the I.P.C.

6. In my view, considering the role attributed to the accused No.2, at this stage, no finding on merits can be recorded. The Court after recording the evidence would be required to record a finding whether accused No.2 shared common intention with accused No.1, who was the main assailant. In this view of the matter, in my view, subject to appropriate conditions bail can be granted to accused No.2. In the facts and circumstances, his further incarceration may not be necessary. His detention is not necessary for custodial interrogation. The

apprehension *put forth* by the learned APP can be taken care of by imposing appropriate conditions. Hence the following order:-

- i) Criminal application is allowed.
- ii) Applicant- **Om S/o Gajanan Butle** be released on bail in Crime No.750/2023 registered with Police Station Arni District: Yavatmal for the offences punishable under Sections 302, 341 read with 34 of the Indian Penal Code, on his furnishing P.R. Bond in the sum of Rs. 25,000/- (Rupees Twenty Five Thousand only) with one surety in the like amount.
- iii] The applicant shall not enter entire Arni Taluka of District Yavatmal till the completion of trial.
- iv] The applicant shall not directly or indirectly make any inducement or promise to any witness in any manner.
- v] The applicant shall not tamper with

the prosecution evidence.

vi] The applicant shall not pressurize or threaten the prosecution witnesses.

vii] The applicant shall co-operate the investigating officer.

viii] The applicant shall attend the trial Court regularly on each and every date.

7. The Criminal Application stands **disposed of** accordingly.

(G. A. SANAP, J.)