



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

CRIMINAL APPLICATION (BA) NO.1202 OF 2024

Tousifuddin Qazi s/o Faizuddin Qazi
Vs.

State of Maharashtra, through Police Station Officer, Police Station Old
City, Akola

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

Court's or Judge's orders

Mr. Z. Z. Haq, Counsel for the applicant.
Ms. T. H. Udeshi, APP for non-applicant for State.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 25/03/2025

1. Present application is preferred by the applicant for grant of bail in connection with Crime No.521/2022 registered with Police Station, Old City, Akola for the offence punishable under Sections 302, 120-B read with Section 34 of the Indian Penal Code and under Section 4 and 25 of the Arms Act.

2. Heard learned Counsel for the applicant, who submitted that the applicant came to be arrested on 01.11.2022 in connection with the above crime which is registered on the basis of report lodged by Sayyed Asif Sayyed Abbas on an allegation that on 31.10.2022 when the informant was proceeding on his motorcycle, he heard the shouts, and therefore, he entered into the crowd which was gathered there and witnessed the present applicant holding blood

stained knife in his hand and his nephew was lying in the pool of blood. Therefore, he removed his nephew to the hospital, but he was reported to be dead. He submitted that during the investigation, the statements of the alleged eye witnesses were recorded, but the statements were inconsistent. Now the investigation is already completed, charge-sheet is already filed and further incarceration of the present applicant is not required. He further submitted that though applicant is arrested on 01.11.2022 and charge-sheet is filed, yet charge is not framed and there is delay in trial. For all above these grounds, the applicant be released on bail.

3. Learned APP strongly opposed for the same on the ground that considering the role of the present applicant, who is witnessed by the eye witnesses assaulting the deceased, due to the previous enmity and the deceased died instantaneously. Considering the nature of the evidence collected during the investigation shows the involvement of the preset applicant. In view of that, the application deserves to be rejected.

4. Heard learned Counsel for the applicant and learned APP for the State. Perused the investigation papers. As far as the involvement of the present applicant is concerned, which reveals from the investigation papers, there is a direct evidence to connect him with the alleged offence.

The evidence is also in the nature of the circumstantial evidence as some of the witnesses including the informant has seen the present applicant holding blood stained knife in his hand. Thus, as far as the involvement of the present applicant is concerned, reveals from the investigation papers.

5. The another ground raised by the present applicant that there is delay in trial. The roznama filed on record shows that the charge was framed on 07.12.2023, however due to the absence of muddemal, the trial was not commenced, and therefore, the witnesses are not examined.

6. Admittedly, the applicant is arrested on 01.11.2022 and charge is already framed. The learned APP has already communicated for producing the muddemal on record. Considering the involvement of the present applicant is in the offence like murder. The Hon'ble Apex Court in the case of **X Vs. State of Rajasthan & Anr. in Special Leave Petition (Criminal) No. 13378 of 2024** has observed that ordinarily in serious offences like rape, murder, dacoity, etc., once the trial commences and the prosecution starts examining its witnesses, the Court be it the Trial Court or the High Court should be loath in entertaining the bail application of the accused. It is further held 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 present case, the charge has already framed. As muddemal is not received, therefore, the trial is not commenced. As soon as the charge is framed, the trial commences. At the most, the directions can be given to the prosecution to expedite the production of the muddemal and take the efforts to commence the trial before the Sessions Court.

8. Considering the nature of the evidence which is direct in nature and the gravity of the offence, at this stage, I am not inclined to grant bail. In view of that, the application is rejected. Accordingly, the application is rejected.

(URMILA JOSHI-PHALKE, J.)