



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

CRIMINAL APPLICATION (BA) NO. 1158 OF 2024

Hemraj S/O Chirkut Banait 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. P.K. Bezalwar, counsel for applicant.

Mr. D.V. Chauhan, Senior Counsel Assisted by Mr. M.V. Jawade, APP for non-applicant/State.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 28/01/2025.

1. The applicant came to be arrested on 24/10/2024 in connection with Crime No. 985/2024 registered with Police Station Saoner, Nagpur (Rural) for the offence punishable under Sections 103(1), 109, 3(5) of the Bhartiya Nyay Sanhita, 2023.

2. The crime is registered on the basis of a report lodged by Vinod Sadashiv Gurkeri on 17/10/2024 alleging that on 14/10/2024, when he was present in the court premises, at that time around 11.45 hours, it was telephonically informed to him that his father was lying in a Holi Chauk near the laundry shop situated near the house of Ashok Umate. Accordingly, he rushed to the spot, and thereafter, he found that his father was lying in an unconscious situation at the steps of the laundry shop. Thereafter, his father was admitted into the hospital, and the investigation was carried out. Thereafter, during the treatment, his father succumbed to death due to the injuries to his brain. On inquiry, it revealed to him that the applicant/accused had assaulted his father with

kicks and fist blows, due to which his father fell down and sustained injuries to his head and succumbed to the death. On the basis of the said report, police have registered the crime against the present applicant.

3. Learned counsel for the applicant submitted that as far as the allegations are concerned, which show that during the sudden fight, the present applicant has only slapped him, due to which the deceased fell on the ground and sustained the injuries. Therefore, there was no motive and no intention to commit the murder of the deceased, but unfortunately the deceased succumbed to the death.

4. Learned Public Prosecutor, assisted by Learned APP, submitted that considering the statements of the eye-witnesses, it was the present applicant, who assaulted the deceased and therefore, the deceased fell on the ground and sustained the injuries, which is sufficient at this stage to show the involvement of the present applicant.

5. Learned counsel for the complainant has also supported the said contention and submitted that considering the gravity of the offence, the application deserves to be rejected.

6. After hearing both sides and perusal of the investigation papers, it reveals that there was a dispute between the applicant and the deceased, and during that sudden dispute, the applicant slapped the deceased. Due to old age, the deceased fell on the ground and sustained the injuries. As far as the intention of the applicant is concerned, at this

stage, even the statements of the eye-witnesses shows that the quarrel was sudden, and only slaps were given by the present applicant. Thus, admittedly, nothing was on record to show that with an intention to cause his death, he was assaulted. Now, the investigation is already completed, and the charge sheet is already filed. Considering the circumstances under which the alleged incident has taken place, the applicant has made out a case for grant bail. In view of that, I proceed to pass the following order.

- a] The criminal application is **allowed**.
- b] The applicant -Hemraj s/o Chirkut Banait, shall be released on bail, in connection with Crime No. 985/2024 registered with Police Station Saoner, Nagpur (Rural) for the offence punishable under Sections 103(1), 109, 3(5) of the Bhartiya Nyay Sanhita, 2023, on executing PR Bond in the sum of Rs.25,000/- with one solvent surety in the like amount.
- c] The applicant shall not enter into the vicinity of Saoner Tahsil till culmination of the trial.
- d] The applicant shall not induce, threat or promise any witnesses who are acquainted with the facts of the case.
- e] The applicant shall attend the proceedings before the Sessions Court without seeking any

exemption unless there are exceptional circumstances.

- f] The applicant shall also furnish his address wherein he is intending to reside, after he is released on bail.

The criminal application is **disposed of**.

[URMILA JOSHI-PHALKE, J.]