



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

CRIMINAL APPLICATION (BA) No.91 OF 2025

(Prabhat s/o. Shriram Gour Vs. State of Maharashtra, through P.S. Jaripatka,
Nagpur)

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

Court's or Judge's orders.

Mr. R.S. Nayak, Advocate for applicant.
Ms. Swati Kolhe, APP for non-applicant.

CORAM : URMILA JOSHI-PHALKE, J.
DATE : 20th MARCH, 2025.

1. The applicant came to be arrested on 28.6.2024 in connection with Crime No.462/2024, registered with Police Station Jaripatka, Nagpur for an offence under Section 302 read with Section 34 of the Indian Penal Code.

2. The applicant is the brother of the deceased. The crime is registered. On the basis of information supplied by the informant who is the Police Officer, who was informed by the friend of the deceased that the deceased was lying unconscious in his house, then Police visited and they found the deceased in unconscious condition. Deceased was taken to the hospital where doctor declared him dead. Therefore, Merg was registered initially. The deceased was referred for the post mortem examination and as per the cause of the death, death is due to ligature strangulation.

Accordingly, the first information report is lodged against the present applicant and the other co-accused. During the investigation it revealed that there was scuffle in the house between the deceased who was under the influence of liquor and the other family members hold him and during that incident he collapsed and succumbed to the death. On the basis of said investigation charge-sheet is filed against the present applicant and the other co-accused.

3. Heard learned counsel for the applicant Mr. R.S. Nayak, who submitted that entire case is based on the circumstantial evidence. There is no single circumstance to connect the present applicant with the alleged offence. There were 4 to 5 family members in the house and only present applicant is implicated as an accused. The mother of the deceased and the present applicant is already released on bail by this Court. Thus, considering the nature of the material collected during the investigation, nothing is there to suggest that it is the present applicant who has strangled the deceased during the said incident. In view of that, the applicant be released on bail as investigation is completed.

4. Learned A.P.P. strongly opposed the said application and invited my attention towards the recitals of the first information report and submitted that from the first information report the conduct of the present applicant reveals. She further invited my attention towards various statements of the witnesses and

submitted that it was present applicant who was holding the deceased and thereafter deceased collapsed and succumbed to the death. The cause of death is due to strangulation. The death of the deceased is caused when he was in the company of the present applicant and the other co-accused. Thus, considering the material collected during the investigation at this stage there is a prima facie material to connect the present applicant with the alleged offence. In view of that, the application deserves to be rejected.

5. After hearing both sides and on perusal of the investigation papers it reveals that the Police have received the information as to the incident and, therefore, they have visited the house of the present applicant and the deceased, wherein deceased was found in unconscious condition. Immediately, deceased was taken to the hospital wherein he was declared dead and the post mortem findings shows that death is due to ligature strangulation. From the other investigation papers it reveals that the deceased came in the house under the influence of liquor and, thereafter he made hue and cry in the house and the other family members were trying to control him. He has also broken the articles in the house and during that present applicant and his mother were holding the deceased and thereafter deceased was collapsed. The statements of various witnesses show the involvement of the present applicant in the alleged offence. Admittedly, the death of the deceased is caused

when he was in the company of the present applicant. Thus, considering the case is based on the circumstantial evidence and the cause of death is due to the ligature strangulation, at this stage the material which is sufficient to show the involvement of the present applicant. In view of that, the application deserves to be rejected. Accordingly, I proceed to pass following order :

ORDER

Application is rejected.

(Urmila Joshi-Phalke, J.)