



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

CRIMINAL APPLICATION (BA) NO.577 OF 2025

(Lokesh @ Lucky s/o Ashok Gupta 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. S.S. Ullah, Advocate for the applicant.
Mr. N.B. Jawade, APP for the State.

CORAM:- URMILA JOSHI-PHALKE, J.
DATED :- JULY 18, 2025.

By this application, the applicant is seeking bail as he came to be arrested on 28.12.2022 in connection with Crime No.1346/2022 registered with Police Station Pachpaoli, Nagpur, District Nagpur for the offences punishable under Sections 143, 144, 147, 148, 302, 120(B), 109 read with Section 149 of Indian Penal Code, 1860 and Section 135 of the Maharashtra Police Act.

2. The crime is registered on the basis of report lodged by brother of the deceased Harsh Kottulwar on an allegation that when he was chitchatting with his friend, he heard the shout of his brother Shankar Kottulwar and accordingly he rushed to the spot of incident and saw that his brother is assaulted by the present applicant by means of knife. At that time, his father Ashok was also standing on the said place and was shouting and instigating the present applicant to assault the deceased. On the basis of the said

report, police have registered the crime against the present applicant.

3. Learned Counsel for the applicant submitted that the trial is commenced. As far as the merits of the matter is concerned, the place of the concealment of the knife is not stated, and therefore, the discovery panchnama is not helpful to the prosecution. He further submitted that the entire case is based on the evidence of the child witness which is not trustworthy as there is every possibility of tampering and tutoring to the said child witness. Now, the investigation is completed, the charge-sheet is already filed, no purpose will be served by keeping the applicant on bail. The applicant is arrested in the year 2022 and just now the trial is commenced. In view of that, the application deserves to be allowed by imposing certain conditions on the present applicant.

4. Learned APP strongly opposed the said application and submitted that considering the gravity of the offence that the informant himself is the eye-witness of the incident. The postmortem report shows the manner in which the deceased was assaulted by giving repeated blows. There was a conspiracy hatched between the present applicant and the other co-accused and in pursuance of the said conspiracy the unlawful assembly was formed and the present applicant has done the said act. The recovery of the panchnama shows there were blood stains on the said knife. The DNA report also discloses that the blood scrapping which seized from the

present applicant is matched with the blood stains of the deceased. Thus, considering the material evidence on record, the *prima facie* case is made out. In view of that, the application deserves to be rejected.

5. After hearing both the sides and on perusal of the investigation papers, admittedly the first informant is also an eye-witness to the incident. In addition to that, one child witness who have seen the alleged incident has also gave a statement as to the actual incident. The child witness under Section 118 of the Indian Evidence Act is a competent witness. At this stage, there is no reason to disbelieve the version of the said child witness who is aged about 9 years. Besides, the direct evidence, there is a circumstantial evidence, like the recovery of the knife and recovery of blood stained clothes at the instance of the present applicant. The DNA report also substantiates the contention as to involvement of the present applicant. The another contention raised by the learned Counsel for the applicant that the trial is just now commenced and only two witnesses are examined, and therefore, there is sufficient period required to conclude the trial and the applicant cannot be detained in jail for indefinite period.

6. Admittedly, the applicant is arrested on 28.12.2022 i.e. prior to three years, but now the trial is already commenced. In view of that, the observation of the Hon'ble Apex Court in the case of **'X' Vs. State of Rajasthan & anr. [Special Leave Petition (Criminal) No.13378 of 2024]**

dated 27/11/2024 are relevant in the present case. Wherein it is observed by the Hon'ble Apex Court 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.

7. In view of the above observation of the Hon'ble Apex Court and now trial is already commenced. The gravity of the offence can be ascertained from the investigation papers, the application for grant of bail deserves to be rejected.

8. Accordingly, the application is hereby rejected.

(URMILA JOSHI-PHALKE, J.)