



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

CRIMINAL APPLICATION (BA) NO. 647 OF 2025

(Umesh S/o Maniram Uike

Vs.

State of Maharashtra, Thr. PSO, P.S. Sawangi (Meghe), Dist. Wardha.)

Office Notes, Office Memoranda of Coram, Appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders
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Mr. S.R. Dube, Advocate for the Applicant.

Mr. N.R. Rode, APP for the Non-applicant/State.

CORAM: URMILA JOSHI-PHALKE, J.

DATED : 29th JULY, 2025

1. The Applicant came to be arrested on 30.06.2025, in connection with Crime No.373/2022 registered with Police Station Sawangi, District Wardha for the offence punishable under Sections 302, 324, 326 504 r/w Section 34 of the Indian Penal Code.

2. The crime is registered on the basis of a report lodged by Informant Bebi Diliprao Nehare on an allegation that on 29.06.2022 when her son came from the Temple and was returning towards the house at that time her daughter-in-law rushed towards the house and disclosed that Avinash i.e. deceased the son of the Informant was assaulted by the present Applicant his wife and son. On the basis of the said report, Police have registered the crime against the present Applicant. After the assault the injured was immediately taken to the hospital but during treatment he succumbed to death.

The statement of the injured was recorded when he was in hospital and from that statement it revealed that on the day of incident the son of the present Applicant has assaulted the injured by means of Axe, whereas the present Applicant has given a blow by knife on his chest. On the basis of the said statement the crime was registered against the present Applicant and other co-accused.

3. Heard learned Counsel for the Applicant, who submitted that as far as the assault by the present Applicant by knife is concerned, the FIR is silent about the same. He also invited my attention towards the statement of the eye witness and submitted that the eye witness has also not disclosed as to the role of the present Applicant regarding the assault by knife. The investigation is already completed and charge-sheet is already filed, though trial is commenced but only three witnesses are examined and there is no subsequent progress in the trial. Thus, the present Applicant cannot be kept behind bars for indefinite period and prays for release him on bail.

4. Learned APP, strongly opposed the said Application and submitted that, the statement of injured which is to be treated as a dying declaration specifically attributes the role of the present Applicant which is substantiated by the PM report as in PM report the injury i.e. the stab injury was shown on the vital part of the body i.e. the chest. The injury on the vital part of the body itself sufficient to show the intention of the present Applicant. He submitted that though the trial is not substantially progressed

but the trial is commenced and three witnesses are already examined. In support of his contention he placed reliance on the judgment of *X Vs. State of Rajasthan & Anr., in Special Leave Petition (Criminal) No. 13378/2024*, wherein the Hon'ble Apex Court has considered the fact of the examination of the witnesses and he submitted that in view of the observation of the Hon'ble Apex Court, the Application deserves to be rejected.

5. On hearing both the sides and on perusal of the investigation papers, before advancing to the merits of the case it is necessary to mention that the learned Counsel for the Applicant pointed out that there is no endorsement on dying declaration but on perusal of the document it reveals that there is an endorsement of the Medical Officer that the patient is fit for a statement. As far as the merits of the matter is concerned, the role attributed to the present Applicant in the FIR is that, the present Applicant has caught hold the deceased and thereafter the son of the present Applicant gave a blow by the Axe on the head of the deceased. The statement of the injured which is to be treated as dying declaration is recorded in the presence of CMO Dr. Abhilasha in the hospital. There is an endorsement that the patient is fit for statement and after that endorsement the statement was recorded which shows that the present Applicant has given a blow of knife on his chest towards the right side. The statement of the eye witness i.e. Chanda Suresh Nehare also shows that the present Applicant has given a blow of knife on his chest. The PM report also discloses that there were stab wounds present over the right

side of chest. It is corroborated with the internal injury on the chest. Thus, as far as the role of the present Applicant is concerned, which is a vital role played in the assault. The injury caused on the chest itself is sufficient to show the intention of the present Applicant.

6. Though learned Counsel for the Applicant placed reliance on the decision in ***Criminal Application (BA) No. 1038/2024 Amar @ Amtya s/o Babarao Moon Vs. State of Maharashtra, decided on 04.12.2024***, wherein this Court has released the accused on bail. On perusal of the facts which shows that considering that there is inordinate delay in trial and 26 witnesses are cited, and therefore, the application was considered and released the accused therein on bail. As far as the present case is concerned, three witnesses are already examined, and therefore, the observation by the Hon'ble Apex Court in the case of ***X Vs. State of Rajasthan & Anr.***, (supra) is relevant here, wherein it is 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. The Hon'ble Apex Court further observed that the moment of the High Court exercises its discretion in favour of the accused and orders release of the accused on bail by looking into the deposition of the victim. It will have its own impact on the pending trial when it comes to appreciating the oral evidence of the victim. 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 also the trial is already commenced, three witnesses are already examined and in view of the observation of the Hon'ble Apex Court the Application deserves to be rejected. However some directions can be given to the Trial Court to dispose of the trial expeditiously. Accordingly, I proceed to pass the following order.

ORDER

- i. The Application is **rejected**.
 - ii. The Trial Court shall proceed with the trial and decide it expeditiously.
 - iii. Liberty is granted to the present Applicant to file Application after 6 months if the trial is not substantially progressed.
8. Pending application/s, if any, shall stand disposed of accordingly.

(URMILA JOSHI-PHALKE, J.)