



In The Court of Additional Sessions Judge-7, Nagpur.

Presided over by  
Shri. P. M. Nagalkar.

**I. A. No.2 of 2024.**

Session Case No.484 of 2024.

CNR No: MHNG010104732024.

Crime No.241 of 2024, P. S. Parshivni.

State of Maharashtra.  
(Through P.S.Parshivni.)  
V/s

Jageshwar Vitthal Thakre and ors.

**Applicant/Accused :** *Jageshwar S/o Vitthal Thakare.*

Order below Exh.9  
(Date: 2<sup>nd</sup> December 2024.)

1. This is an application for issuance of directions as applicant/accused Jageshwar S/o Vitthal Thakare, be released on bail, U/Section 483 of Bhartiya Nagarik Suraksha Sanhita. Applicant/accused booked in Crime No.241 of 2024, for the offences punishable U/Sections 302, 201 r/w 34 of the Indian Penal Code and Section 4/25 Arms Act.
2. Perused the application along with documents annexed here with and say/report filed at Exh.10 of Investigating Officer/APP. Heard both the sides at length.
3. In the light of this facts emerged, submissions by the parties and material on the record, the following points arise for determination

before this Court. The said points and the findings thereon which follow the reasons as:

**Point For Determination.**

<b>Sr. No.</b>	<b>Point</b>	<b>Finding</b>
1.	Whether the applicant/accused <i>Jageshwar S/o Vitthal Thakare</i> , made out the case as to issuance of direction as to be released on bail, in the given set of facts?	...No.
2.	What order?	...Application rejected as per final order.

**REASONS**

***As to the point no.1:***

4. The applicant came with case that he had been arrested in this crime. Charge-sheet now have been filed after investigation. It is submitted that the alleged date of offence is from 25/06/2024 to 26/06/2024. However, FIR registered on 26/06/2024 at about 15.15 hours. As such there is delay of FIR and there is no explanation to that effect.
5. It is also submitted that the prosecution story itself is not appears to be probable. It is also submitted that the applicant arrested merely on suspicion ground on 27/06/2024 and since then he is in custody. He is having with clean record on based and not involvement in the crime. He is sole bread winner in his family as he is earning member of the family having two children school going, facing hardship, he is farmer and for the support of family, he had started Dhaba.
6. It is submitted that recovery shown is defective and cannot be sole ground for rejection of bail. In this backdrop it is submitted that the application be rejected.

7. On the other hand the prosecution has opposed the application on the ground that there is eye witnesses and at the spot of incident there was assault by the Bamboo stick as well as used of knife. The P. M. report and memorandum shows recovery at the instance of the accused, memorandum statement have been duly recorded in presence of panchas, photographs were taken and considering the statement of witnesses that there is ample evidence against the applicant as he had been committed the offence of murder. Hence, claimed that the applicant has not made out case for bail. Accordingly, claimed that application be rejected.
8. The Investigating officer had filed their say and also stated the facts and opposed the application as stated by the Learned APP
9. It is submitted on behalf of the accused persons that one of the accused Dnyaneshwar Chavan released on bail by this Court and therefore, both the applicants are also entitled for bail on the principle of parity.
10. On behalf of the prosecution it is submitted that each case is to be considered on its own merits. The allegations against the applicant and allegations and record reveled the material as against the accused No.3 is not at par and therefore, principle of parity is not applicable.
11. The allegations as inferred from the FIR that complaint lodged by Khushal Namdeorao Thakre, father of the deceased Nitin on 26/06/2024. *Inter alia*, it is contended that his daughter in law was pregnant and hence, deceased took her at Hospital at Nagpur and admitted on 25/06/2024. At around 12.00 noon hours wife of deceased called the informant and asked to her daughter and her

mother to bring at Hospital. As such he took them proceeded from Hospital by that time Nitin came there and they went along with Nitin and he returned back.

12. Deceased Nitin left Hospital at around 2.35 pm and left his daughter at place of his sister Vinita at around 4.30 and then again left Hospital on the pretext that he was going to his in laws' house at Kamptee, but thereafter he did not turn up. In the evening the informant called his brother in law of the deceased who told that he left Kamptee at around 7.30, but on that day he did not turn up.
13. On 26<sup>th</sup> in the morning at about 8.30 am he had been told by one Naresh Dhone, that his son Nitin lying with serious injury on his neck and his vehicle bearing No. MH-49-A-7571. He immediately went to spot where police and other people were already present and found Nitin was dead. Hence, he lodged complaint accordingly.
14. On this count investigation was made and it was revealed that during investigation and from CDR he had quarreled on account of liquor with accused No.1 and 2 at their Dhaba. Both the applicant and 2 arrested and on the basis of memorandum of statement made by them the alleged weapon was seized and it was revealed that accused No.1 and 2 had assaulted deceased by means of knife and Bamboo stick on his head and then both took him for vehicle and left at the place. The motive or reason for his death during quarrel the deceased allegedly told that he refused liquor then would face dire consequences as earlier he had put set on fire at his Dhaba.
15. As such from statement of witnesses and memorandum of statement and recovery of weapon as it is clear discovery of the facts as involvement of the applicant is duly corroborated by the statement of

witnesses as to show role played by the applicant is clearly attributed crime of murder.

16. In this backdrop as it is submitted that even it is assume that there was death but the case is not came within the purview of culpable homicidal as not amounting to murder. As from the record as earlier observed it is submitted that deceased call liquor and the applicant accused No.1 had denied him. However, the deceased told him that he had earlier set on fire his Dhaba and will also repeat the same. As such, it is case of without premeditation or motive.
17. However, from record photographs and P. M. report itself show that it was cold blooded murder as it is not case of the assault by means of any stick or fist blow, but weapon like knife and wooden stick used to assume on his head of the deceased. In this backdrop it is not just and proper at this stage to draw the inference that it is case of culpable homicidal as amounting to murder.
18. Since, the legal principle that for grant of the offence punishable with death or life for imprisonment then prima facie has to be seen on the basis of material on record without evaluating evidence. If it is found affirmative the accused has to show that there is no reasonable ground of his involvement since, the presence itself is not ground as circumstantial evidence. There is nothing witness as regarding quarrel. In this backdrop it cannot be said that the applicant had made out case as to held that there is no reasonable ground of being guilty in the crime. As far as the application of principle of parity is concerned the accused No.3 was employee and there is nothing against him. Whatever role played in the crime is prima facie established by accused No.1 and 2 i.e. applicant and other accused, therefore, principle of parity is not applicable. Merely charge-sheet

filed after investigation and are having dependency of their family itself is not ground to grant bail for the offence like murder. Hence, it is not fit case to exercise the discretion of bail. Hence, the finding of point no.1 is recorded as '**Negative**'. Consequently, proceed to pass following order.

**ORDER**

1. Application (Exh.9) is hereby rejected.

Dictated and pronounced in open Court.

Date : 2<sup>nd</sup> December 2024.

(Pramod M. Nagalkar)  
Additional Session Judge-7, Nagpur