

IN THE COURT OF ADDITIONAL SESSIONS JUDGE, NASHIK,
AT – NASHIK.

(Presided over by Mr. M. H. Shaikh)

Criminal Bail Application No.1235 of 2022

CNR NO.MHNS010053132022



Yashwant Bayaji Bagul

... Applicant/Accused.

V/S

State of Maharashtra

Through – Surgana Police Station

... Respondent/State.

Appearance : Ld. Adv. Shri. Amol G. Patil for Applicant/Accused.
Ld. A.P.P. Shri. Sachin Gorwadkar for Respondent/State.

ORDER BELOW EXH. NO.1

(Delivered on 18th October, 2022)

1. This is an application filed under Section 439 of Criminal Procedure Code for grant of bail in C. R. No. I-39/2022 registered with the respondent Surgana Police Station for an offence punishable under Sections 302, 307 read with 34 of the Indian Penal Code.

2. Read the application and the say filed by the respondent vide **Exh.4**. Heard Ld. Advocate for the applicant and Ld. A.P.P. for the State.

3. It is alleged by the prosecution that, the deceased Vasant Thakare was assaulted by the applicant and his wife who is co-accused in this matter, on the suspicion that the deceased Vasant Thakare committed sexual assault on their daughter. The applicant caught hold both the hands of the

deceased and co-accused assaulted the deceased by wooden plank (Musal). The deceased was removed to the hospital where he succumbed to his injuries. The brother of deceased lodged the complaint about the incident.

4. The applicant has come with the case for grant of bail on the grounds that when they learnt about the incident of their daughter therefore they went to ask the deceased, on that he started abusing and quarreling with the applicant and his wife and he also started assaulting them therefore in defence the scuffle took place and in that the deceased sustained injuries. There was no intention of the applicant and his wife. The wife of applicant is released on bail by the court. Major part of investigation is completed. He is ready to abide by the conditions likely to imposed by the Court.

5. Respondent filed the reply vide Exh.04 and objected on the ground of seriousness of the offence, complainant and applicant are resident of the same area. Therefore prayed to reject the application.

6. On going through the arguments advanced by the duo Advocates and going through the material on record, what can be gathered is that, on suspicion about sexual assault on the daughter of the applicant, the incident occurred in which the deceased sustained injuries and died. From the circumstances, prima facie it reveals that there was no intention to kill the deceased. It occurred suddenly. The co-accused i.e. the wife of applicant is enlarged on bail by the court in Cr.B.A.1083 of 2022. The investigation is at the verge of completion. Applicant is in jail for the last two months. If we read FIR minutely, one will find that there is delay of two days in lodging the report to the police about the incident. Further one will find that there was meeting held in the village and the matter was resolved. However, as the

deceased died therefore it seems that the FIR was lodged by the brother of the deceased. The only ground raised by the respondent is that the applicant is resident of the same area where the complainant is residing and there is possibility of dispute will crop up between them. This court find that the said apprehension of the respondent can be taken care by imposing conditions upon the applicant. The co-accused i.e. the wife of applicant is released on bail. Therefore, the principle of parity is applicable to our case in hand. Reliance can be placed upon the authority relied by Ld. Advocate for the applicant i.e. “Kunal Ramdas Chavan Vs. State of Maharashtra decided by the Hon’ble High Court of Bombay on 27th April, 2001”.

7. In view of the above observations, this court find that the applicant deserves bail in this matter. Therefore, this court proceed to pass the following conditional order,

ORDER

1. Criminal Bail Application No.1235/2022 is allowed.
2. Applicant Yashwant Bayaji Bagul be released on bail in C. R. No. I-39/2022 registered with the respondent Surgana Police Station for an offence punishable under section 302, 307 read with 34 of Indian Penal Code, 1860 on his furnishing a personal bond of Rs.25,000/- with one or more solvent sureties in like amount on the following conditions :
 - (i) He shall attend the Surgana Police Station on every Monday between 11.00 a.m. to 2.00 p.m. till filing of charge-sheet and co-operate the I.O. in investigation.
 - (ii) Applicant not to threaten and pressurize the complainant and witnesses.
 - (iii) Applicant shall not recur the offence.
3. Bail before the Ld.JMFC Court.

4. Inform concerned Police Station accordingly.
5. Criminal Bail Application No.1235/2022 stands disposed off accordingly.

Place : Nashik.

Date : 18/10/2022

(M. H. Shaikh)

Additional Sessions Judge, Nashik.