

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

Criminal Application [BA] No.19 of 2015

(Pradeep Suresh Wajurkar

vs.

The State of Maharashtra, through P.S.O. Hudkeshwar, Tahsil and District Nagpur)

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*Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.*

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Court's or Judge's Orders

CORAM : PRASANNA B. VARALE, J.

DATE : FEBRUARY 10, 2015.

Heard A.B. Moon, the learned Counsel for the applicant.

The applicant is before this Court seeking his enlargement on bail in connection with Crime No.192/2014, registered at Hudkeshwar Police Station, District Nagpur for the offences punishable under Sections 302, 143, 147, 148 and 201 read with Section 149 of the Indian Penal Code, Section 4 read with Section 25 of the Arms Act, and under Section 135 of the Mumbai Police Act.

On 28/07/2014, a report was lodged at Hudkeshwar Police Station at the instance of Ku. Reshma Bhure alleging that her brother viz. Roshan on 27/07/2014 left the home at about 01:00 p.m. and returned back after an hour. Again in the evening at about 07:00 p.m., Roshan received a phone call of his friends that they wanted to visit him. Accordingly within 10

minutes, two boys reached at the house of Roshan on a motorcycle. Roshan was ready to leave with his friends. Out of these two boys, one was Masurkar, to whom Reshma had an acquaintance. Two friends and Roshan left the house. Roshan was carrying his cellphone with him. Even at late hours of the day, as Roshan did not return back, the family members thought that he may be staying with his friend. On the next day, an attempt was made to contact on his mobile phone, but there was no success in establishing the contact. At about 09:00 in the morning, a friend of Reshma, viz. Priyanka informed her that there was an enquiry going on in respect of a person by name Roshan Bhure. Reshma immediately rushed to the Police Station with her neighbour. On enquiry, it was revealed that a dead boy was found. Reshma and her father identified the dead body of Roshan. There were severe injuries on the dead body. Accordingly, a report was lodged that some unknown person committed murder of Roshan.

The learned Counsel Mr. Moon for the applicant submitted that the applicant is arrested on 28/07/2014 and since then the applicant is behind the bars. He further submits that the only material against the applicant is the confessional statement of co-accused. He further submits that apart from the fact that this material itself is a very weak material, this material itself is hardly insufficient to connect the applicant in any way in

commission of crime. He submits that all the incriminating material, namely weapon and bloodstained clothes, is recovered at the instance of other co-accused. There is no event refers to any such material, which can be called as incriminating material against the applicant. He further submits that with such insufficient material, there is hardly any chance that the prosecution would establish its case against the applicant, and the applicant is having every hope of his clean at the ultimate process of trial. In such a situation, keeping the applicant behind the bar for further indefinite period would not be justified.

Mr. R.S. Nayak, the learned A.P.P. vehemently opposes the application. He submits that in the process of investigation, it was revealed that three accused, who are juvenile persons, namely Ashvin, Saksham and Bhavik were carrying grudge against one Viraj Dhakate. There was a love angle involved in this offence. Viraj was carrying friendly relationship with one girl, which was not liked by the accused. The accused hatched a plan to eliminate Viraj. Roshan was friend of Viraj and he cautioned Viraj. As Roshan cautioned Viraj, a plan of eliminating Viraj was not successful. The accused were enraged because of the act of Roshan, who cautioned Viraj. Thus with a revengeful attitude and with an intention to eliminate Roshan, they hatched a plan to pick up Roshan from

Nagpur and carrying him to a secluded place i.e. Vihirgaon and then by use of weapon like knife successive blows were given resulting in the death of Roshan.

On perusal of the material, the material is in respect of the enmity on account of the love relationship and the cautioning of Roshan to Viraj is reflected. The statement of Viraj is recorded. He gives the details. He states that Sumit, Ashvin, Bhavik, Akshay under the influence of liquor reached to his room, gave him threats and abused him. The postmortem reports shows that the victim received as many as 47 injuries. The cause of death shown as “Shock and Hemorrhage due to injuries sustained”. It cannot be disputed that the brutal murder of victim was committed. Insofar as the present applicant is concerned, the material shows that the role of the applicant is reflected in the statement of the co-accused. Learned Counsel Mr. Moon for the applicant was justified in submitting that apart from the statement of co-accused, there is no other independent material against the applicant. The perusal of the statement of co-accused shows that the co-accused states applicant entered on the scene on giving call, whereas the other accused proceeded on the spot and they were prepared i.e. the arms were carried by the other accused to the spot. The material only shows that the applicant reached on the spot on receiving call. He was present on the spot and he was frightened and under the state of shock.

The other material is in the form of recovery and this recovery is against the other accused persons. Though the reply filed by the State refers to some call details, these call details are in respect of the phone calls received by Viraj and the threatening calls of accused Askhay to Viraj referred in the statement of Prachi Vaidya.

Thus, considering the material, I find merit in the submission of the learned Counsel for the applicant that the material against the applicant is a weak piece of evidence. The applicant is behind the bars for more than a period of seven months. The investigation is now complete. No fruitful purpose would be served by keeping the applicant behind the bars for further indefinite period. The learned Counsel for the applicant has made out the case. The apprehension of the State can be taken care of by imposing certain conditions.

In the result, the application is allowed. The applicant be released on bail on his furnishing P.R. Bond in the sum of Rs.20,000/- (Rupees Twenty Thousand Only) with one or two sureties in the like amount on the following conditions.

- i. The applicant to attend Hudkeshwar Police Station, District Nagpur on every second and fourth Sunday of the month from 09:00 a.m. to 12:00 noon and a maintain diary of his attendance duly countersigned by the Police Station Officer, till commencement of the trial.

- ii. The applicant shall not tamper with the evidence nor commit any act such as contacting the prosecution witnesses or pressurize them.
- iii. The applicant to submit his residential address and contact numbers, such as phone/mobiles numbers, to the investigating agency or in case of change.
- iv. In case the applicant is moving out of the area of Hudkeshwar Police Station, he shall take permission and inform the concerned Police Station about his visit to other place.

In case of any breach of the conditions by the applicant, the State would be at liberty to move this Court.

Needless to say that these are the observations of the Court while deciding the present bail application and the learned Sessions Judge may not be influenced by these observations while conducting the trial.

The application is disposed of as such.

JUDGE

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