

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

Criminal Application [BA] No.30 of 2015

(Beniram Radhelal Nagpure

vs.

The State of Maharashtra, through P.S.O. Salekasa, District Gondia)

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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 05, 2015.

Heard Mr. D.B. Borkar, the learned Counsel for the applicant.

The applicant is before this Court seeking his enlargement on bail in connection with Crime No.119/2013, registered at Salekasa Police Station, District Gondia, for the offence punishable under Section 302 read with Section 34 of the Indian Penal Code.

The learned Counsel for the applicant, by inviting my attention to the material placed on record in the form of F.I.R. and copy of charge-sheet, submits that the material collected against the applicant is only the insufficient circumstantial material evidence, which is either wholly inadmissible or wholly insufficient to connect the applicant in commission of crime. The learned Counsel for the applicant submits that the deceased was daughter-in-law of the present

applicant. He submits that allegations are of a matrimonial discard between son of the applicant and his daughter-in-law. He further submits that the material foisted against the applicant is a medical certificate, which shows some scratches on the face of the applicant. He further submits that the other material is the confessional statement of accused no.1. The learned Counsel further submits that the circumstantial evidence itself is a weak piece of evidence and the material against the applicant is hardly of any consequence either to connect this situation in forming a chain and pointing out any mischief against the applicant.

Mr. S.B. Ahirkar, the learned Additional Public Prosecutor opposes the application.

On perusal of the material, it reveals that the Police Patil of Village Vicharpur viz. Dinesh Madame was informed by one Nayandas Ratone that Roman Nagpure committed murder of his wife. He immediately rushed to the spot and found the victim lying in a room on Diwan. The material further reflects that the marriage between Roman and victim Kamlabai was solemnized in the year 2008. Within a span of three years of marital life, there was discard in the matrimonial relations. The couple then entered in an agreement and settled their dispute, started residing with each others, but there are constant quarrel between the couple. The informant-Dinesh states that as the couple was always found quarreling and as Roman was not

available in the house, there was a talk in the village that Roman might have committed murder of his wife. In the process of investigation, various steps were taken such as drawing the spot-panchnama, inquest-panchnama and subjecting the accused to medical examination. The material further discloses that one of the witnesses states that accused Romanlal himself approached Darekasa Police Camp and reported that he committed murder of his wife Kamlabai with the help of the present applicant. The material against this applicant is of medical certificate issued on 25th December, 2013 by the Rural Hospital Salekasa, District Gondia showing linear scratches over the face. The perusal of the postmortem report shows that the cause of death is opined as throttling.

Considering the material placed on record, in my opinion, there is a merit in the submission of the learned Counsel for the applicant that the material against the applicant is only in the nature of circumstantial evidence that too scanty and a weak piece of material evidence. The applicant was arrested on 25th December, 2013 and since then he is behind the bars. The trial would take sufficient period to commence and conclude. The applicant is in his advanced age and is running nearly 60 years of age. There is hardly any apprehension that the applicant would flee away or would not be available in the progress and process of trial. The learned Counsel for the

applicant has made out a case for enlargement of the applicant on bail.

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 Salekase Police Station, District Gondia on every second and forth Sunday of the month from 09:00 a.m. to 12:00 noon and 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 Salekasa 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 observations are for consideration of the prayer of the applicant for enlargement on bail and the learned Sessions Judge may not be influenced by these observations in the process and progress of the trial.

The application is disposed of as such.

JUDGE

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