

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

Criminal Application [BA] No.134 of 2015

(Dadu @ Dadarao Najukrao Pande

vs.

The State of Maharashtra, through P.S.O. Civil Lines, Akola)

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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

Mr. S.V. Sirpurkar, Advocate for the Applicant.

Mr. R.S. Nayak, A.P.P. for the Non-Applicant/State.

CORAM : PRASANNA B. VARALE, J.

DATE : APRIL 20, 2015.

Heard the learned Counsel for the applicant and the
learned A.P.P. for the State.

The applicant is before this Court seeking his
enlargement on bail in connection with Crime No.286/2014,
registered at Civil Lines Police Station, Akola, for the offences
punishable under Sections 302, 201, 120-B read with Section 34
of the Indian Penal Code.

With the assistance of the learned Counsel for the
applicant and the learned A.P.P., I have gone through the
material. The case of the prosecution, which is reflected through
the F.I.R. and then the other allied material is that a dead body
was found, reveals that the informant-Ganesh received an
information through his sister-in-law viz. Kesar w/o Jaikrushna
on 19/05/2014 that on account of a quarrel between the couple,

Jaikrushan left his home. Ganesh told the sister-in-law to carry out the search and make a report to the Police Station and in the meantime, he will also send his son-Amol. Though the search was continued for 4-5 days, there was no positive result and accordingly Kesar, the wife and Ku. Deepali, the daughter of Jaikrushna informed Ganesh that there is no trace of Jaikrushna. The police personnel from Daryapur Police Station meantime approached the informant-Ganesh and in the enquiry, they also asked Ganesh, whether he has any doubt or suspicion in the matter of missing of his brother. Ganesh then gave version of illicit intimacy of Kesar and one Laxman Athavale. In the report, then it is stated that from the enquiry conducted by policeman, it came to his knowledge that as Jaikrushna was an obstacle between the illicit intimacy of Kesar and Laxman Athavale, Laxman with the assistance of one Amol and the present applicant killed Jaikrushna in an area namely Dahihanda area. The material collected by the investigating agency shows that the material against the present applicant is in the form of confessional statement of the co-accused and recovery of a motorcycle. The reply filed by the State refers to a story presented by the accused Laxman of death of Jaikrushna by running over a train while the victim was easing himself at the railway track. The case against the present applicant is built on a statement of co-accused Kesarbai. Even considering that

aspect of the matter, *prima facie* there are missing links of a positive role of the applicant.

The learned Counsel for the applicant was also justified in submitting that the prosecution is not even successful in establishing the identity of the deceased. Only on a skull found in an agricultural field, the prosecution alleges that it was the dead body of the alleged victim-Jaikrushna i.e. the brother of Ganesh. The reply filed by the State shows that the histopathological report of the skull reveals that the skull is of a human being aged between 30 to 40 years and the said articles were forwarded for D.N.A. analysis.

Thus, the learned Counsel for the applicant was justified in submitting that even the identity of the deceased is not positively established till date.

Considering all these aspects and on the backdrop of the material, in my opinion, the learned Counsel for the applicant has made out a case for enlargement of the applicant on bail. The apprehension of the State can be taken care of by imposing certain conditions on the applicant.

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 solvent sureties in the like amount on the following conditions.

- i. The applicant to attend Civil Lines Police Station, Akola, on every second and forth Sunday of the month between 09:00 a.m. to 12:00 p.m. and maintain diary of his attendance duly countersigned by the Police Station Officer or the Investigating 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.
- iv. In case the applicant is moving out of the area of Civil Lines Police Station, Akola, 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