

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

**CRIMINAL APPLICATION (BA) NO.636/2015**

(Nagesh s/o Laxman Gogula Rathod ..vs.. State of Maharashtra, thr. PSO P. S.  
Asarali, Tq. Sironcha, Dist. Gadchiroli)

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Office Notes, Office Memoranda of Coram,  
appearances, Court's orders of directions  
and Registrar's Orders.

Court's or Judge's orders.

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Mr. Anup Dhore, Advocate for applicant.  
Mr. P. V. Bhoyar, A.P.P. for non applicant-State.

**CORAM : V. M. DESHPANDE, J.**

**DATE : OCTOBER 7, 2015.**

This is an application under Section 439 of the Cr. P. C. for grant of bail. The applicants are arrested in connection with Crime No.13/2014 registered with Police Station Asarali, Dist. Gadchiroli for an offence punishable under Sections 302, 201 read with Section 34 of the IPC. The applicants are arrested on 05.12.2014 and since then they are languishing in jail.

The deceased is one Ramesh Sodari. The FIR is lodged by one Parvatalu Malaya Sodari, who is father of the deceased. The FIR is dated 03.10.2014. It was alleged against the unknown person. It is stated in the FIR that the deceased was mason and used to work at Manchiral, Andhra Pradesh for two months and thereafter he used to come to the house and use to hand over some part of the amount, which he had earned during his gainful employment and

keep some of it for personal expenses. The FIR discloses that a ceremony known as *Badkamma* was being enjoyed by the villagers. The first informant was also there and deceased was with his friends.

On 03.10.2014, he received an information from Venkati Jimde who noticed the dead body of Ramesh lying near Hanuman temple.

The investigation is over. The charge-sheet is already filed.

There is no eye witness count in the prosecution case. The entire case of the prosecution hinges on circumstantial evidence. Though in the statement of the first informant, which is recorded on 25.11.2014, he has stated that he gathered information from the villagers that the deceased was seen in the company of the present applicants, however, the prosecution has not recorded statement of any such villagers showing that the deceased was in the company of the present applicants.

The prosecution is also relying upon the memorandum statement of the applicants in respect of the recovery of the alleged weapon. However, I am afraid, the same can be useful at least, *prima facie*, for opposing the bail application on perusal of the report of the dog handler which shows that the weapon was found lying on the spot itself.

Looking to such nature of the evidence collected during the course of investigation and charge-sheet has already filed, in my view, further custodial presence of the applicant is not necessary.

In that view of the matter, following order is passed.

**ORDER**

(i) Criminal Application (BA) No.636/2015 is allowed.

(ii) Applicant no.1-Nagesh s/o Laxman Gogula Rathod and applicant no.2-Swamy Chinna Malaya, be released on bail in connection with Crime No.13/2014 registered with Police Station, Asarali, Dist. Gadchiroli for an offence punishable under Sections 302, 201 read with Section 34 of the IPC on they executing P.R. Bond in the sum of Rs.20,000/- each with one surety each in the like amount.

(iii) Bail before trial Court.

(iii) The applicants shall attend Police Station, Asarali, Dist. Gadchiroli once in every month i.e. on last Sunday between 2.00 p.m. to 5.00 p.m. till the charges are framed against them.

**JUDGE**