

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

CRIMINAL APPLICATION (BA) NO.748 OF 2015

Raju S/o Babarao Urvate

..vs..

The State of Mah., thr Police Station Officer, Police Station, Wadki, District Yavatmal

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

Court's or Judge's Order

Shri M.P. Kariya, Counsel for the Applicant.
Shri S.S. Doifode, Addl.P.P. for the State.

CORAM : V.M. DESHPANDE, J.
DATED : OCTOBER 27, 2015.

By the present application under Section 439 of the Code of Criminal Procedure, the applicant is seeking his release on bail since the applicant is arrested in connection with Crime No.37 of 2015 registered with Police Station Wadki, District Yavatmal for the offences punishable under Sections 364, 302, and 201 read with Section 34 of the Indian Penal Code.

Heard learned counsel for the applicant and learned Additional Public Prosecutor for the non-applicant/State.

The charge sheet discloses the name of deceased as Chandrabhan. The FIR is lodged on 3.4.2014 at the instance of one Maroti Chandrabhan Maregama who is his son. From the FIR it is clear that the deceased was found to be missing from 30.3.2015 since according to the

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FIR, on the said date, co-accused Shankar and Ravi came to the house of the first informant and then they requested the deceased to accompany them. The FIR shows that the deceased was taken to the motorcycle by co-accused Shankar and Ravi. The mother of the first informant made enquiry in the village. That time, one Kisan Bhurba revealed to her that Shankar was brought to the village by Ravi on motorcycle. Therefore, the first informant's mother reached to the house of Shankar and Ravi and made enquiry about her husband Chandrabhan. However, they gave evasive replies.

On that account, the FIR was lodged against co-accused Shankar and Ravi.

According to the charge sheet, co-accused were arrested on 3.4.2015. As per the investigation, during their arrest, they reported the name of the present applicant and, therefore, the present applicant was arrested.

According to the prosecution, during the course of his police custody remand, he made a statement whereby he had agreed to show the place where the dead body was thrown. The case diary shows that the police officer was already in know of the place when he recorded the statement of the applicant. In such situation, much importance cannot be attached to the statement under Section 27 of the Evidence Act of the present applicant.

There is no eye witness of the incident.

Further, it is not the case of the prosecution that the deceased was seen lastly alive in the accompany of the present applicant. On the contrary, the deceased was seen alive lastly in the accompany of other co-accused persons.

In view of above, since the investigation is over and the charge sheet is already filed, the present applicant can be released on bail on imposing him certain conditions. That leads me to pass the following order :

ORDER

1] The criminal application is allowed.

2] Applicant – Raju S/o Babarao Urvate be released on bail in connection with Crime No.37 of 2015 registered with Police Station Wadki, District Yavatmal for the offences punishable under Sections 364, 302, and 201 read with Section 34 of the Indian Penal Code on his executing Personal Bond of Rs.50,000/- (Rupees Fifty Thousand Only) with two solvent sureties in the like amount.

3] The applicant shall attend the concerned

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police station once in a fortnight and preferably on first and third Saturday between 2:00 pm to 5:00 pm till culmination of the trial.

4] The applicant is prohibited from extending any threat whatsoever in the nature to the prosecution witnesses.

5] Bail before the Trial Court.

With these directions and observations, the criminal application is allowed and disposed of.

JUDGE

!! BRW !!

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