

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

CRIMINAL APPLICATION (BA) NO.786 OF 2015

Jagadish S/o Devaji Sarve

..vs..

State of Maharashtra, thr PSO, Police Station, Lakhani, Tahsil and District Bhandara

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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 N.B. Mohture, counsel for the applicnat.
Shri A.D. Sonak, Addl.P.P. for the State.

CORAM : V.M. DESHPANDE, J.
DATED : OCTOBER 28, 2015.

Heard.

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.68 of 2015 registered with Police Station Lakhani, District Bhandara for the offence punishable under Section 302 of the Indian Penal Code.

Deceased is Nirasha who was wife of the present applicant.

The FIR is lodged, at the instance of father of deceased Murlidhar Chirkut Bhadke, on 25.5.2015. According to the said FIR, prior to three years of the

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occurrence, the deceased married to the present applicant. Though there is an element of demand in the FIR, the FIR does not disclose that due to such demand she was subjected to any cruelty. On the contrary, according to the FIR, there used to be quarrel between the couple over certain trivial issues.

The dead body of the deceased was found in a canal. The cause of death of the deceased was asphyxia due to throttling. There is no eyewitness account in the prosecution case. Further, there is nothing on record to show that the applicant was seen lastly in the accompany of his wife. On the contrary, as per the statements of Rahul Sarve and Ajay Dayre, the present applicant was with them and they had been to village Rajegaon. In the house of Nitesh Wasnik they consumed liquor and, thereafter, went to one hotel and ate Samosa.

Learned Additional Public Prosecutor for the State submits that on the spot of the incident a Samosa was found. This is a connecting circumstance in the submission of learned Additional Public Prosecutor.

Merely because the applicant had taken a Samosa at Rajegaon along with his friends and one Samosa was found, that by itself cannot be an incriminating circumstance especially when there is nothing at least *prima facie* on record to show that the applicant, thereafter, was seen in the accompany of the deceased.

In that view of the matter, especially when the charge-sheet is filed, I see no reason for continuance of the present applicant in the jail custody. That leads me to pass the following order :

ORDER

1] The criminal application is allowed.

2] Applicant – Jagdish S/o Devaji Sarve be released on bail in connection with Crime No.68 of 2015 registered with Police Station Lakhani, District Bhandara for the offence punishable under Section 302 of the Indian Penal Code on his executing Personal Bond of Rs.25,000/- (Rupees

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Twenty Five Thousand Only) with one solvent surety in the like amount.

3] The applicant shall attend the concerned police station once a month and preferably on every Tuesday, 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.

The criminal application, with these directions and observations, is allowed and disposed of.

JUDGE

!! BRW !!

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