

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

CRIMINAL APPLICATION (BA) NO.496 OF 2016

(Saurabh Prakash Durge Vs.The State of Maharashtra)

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

Court's or Judge's orders

Shri F. T. Mirza, Advocate for the applicant.
Shri A. V. Palshikar, A.P.P. for the State.

CORAM : S. B. SHUKRE, J.

DATED : 25 JULY, 2016

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

On perusal of the charge-sheet, which contains statements of material witnesses, prima facie, I find that this is a case which could be said to be one of botched investigation. The charge-sheet, as allegedly submitted by learned Counsel for the applicant, does not offer any assistance in ascertaining as to on what ground this applicant was arrested, what was the material then available for suspecting this applicant as somebody who may have committed this crime and what was it that finally weighed with the Investigating Officer in reaching a conclusion that this applicant was prima facie involved in commission of the murder of deceased Aasutosh Rathod.

The crime of murder, as per the prosecution story, has been committed in the night of 02/01/2016 in

applicant's residential room at Darwaha. The applicant has been arrested on 05/01/2016 and on 09/01/2016 statement of one witness Shubham Dahake was recorded, which discloses that this applicant had made an extra judicial confession to him about the crime committed by him. This statement also shows that after doing away with the deceased, this applicant and his co-accused purchased two bottles of petrol from a petrol pump and using that petrol, set on fire the dead body of the deceased. The statement of petrol pump boy dated 06/01/2016 shows that he had sold two bottles of petrol to two unknown boys. He has stated that, he was in a position to identify those two boys. So, there was statement of petrol pump boy on the one hand and extra judicial confession of this applicant on the other, which also showed that he had purchased two bottles of petrol from one petrol pump. But, the Investigating Officer, during the initial stage as well the other Investigating Officer after the case was handed over to the C.I.D., both, chose, for the reasons best known to them, not to hold identification parade of this applicant and the co-accused to enable the petrol pump vendor to identify this applicant. Charge-sheet has also been filed. But, that was done by keeping the material lacuna in the charge-sheet. That is why, at the beginning of this paragraph, I have noted that the investigation has

been carried out in an unsatisfactory manner. On the basis of such prima facie evidence, it would not be proper to deny this applicant the relief of bail. Hence, the order.

The application is allowed and it is directed that the applicant be released on bail on his furnishing a P. R. Bond in the sum of Rs.20,000/- together with one solvent surety in the like amount on the following conditions; that the applicant-

1) shall attend regularly the dates fixed by the Court in the matter,

2) shall cooperate with the Court in expeditious disposal of the case, and

3) shall not tamper with the prosecution witnesses.

JUDGE

CERTIFICATE

“I certify that this order uploaded is a true and correct copy of original signed order.”

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