

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

CRIMINAL APPLICATION (BA) NO.933 OF 2016

(Vijay s/o Natthuji Raut ..vs.. State of Maharashtra, through PSO, PS Katol, District Nagpur)

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

Court's or Judge's orders

Shri C.R. Thakur, Advocate for applicant,
Shri A.M. Deshpande, Addl.P.P. for non-applicant.

CORAM : P.N. DESHMUKH, J.
DATED : 07-12-2016

Heard Shri C.R. Thakur, learned Counsel for applicant and Shri A.M. Deshpande, learned Additional Public Prosecutor for non-applicant.

This application is filed for bail by accused involved in Crime No.80/2016 registered by Katol Police Station, District Nagpur for the offences punishable under Sections 302 and 201 of the Indian Penal Code.

Shri C.R. Thakur, learned Counsel for applicant has contended that applicant is arrested on suspicion as relations between applicant and deceased who is his younger brother namely Latesh were on occasions not cordial as Latesh having been addicted to liquor used to demand money from applicant to consume liquor. It is contended that the case of prosecution is based on circumstantial evidence, which circumstances are too short to form the chain of events establishing guilt of

applicant and has thus submitted that since no custodial interrogation of applicant is necessary, application be allowed by imposing suitable conditions as there is no possibility of trial being concluded in near future.

Shri A.M. Deshpande, learned Additional Public Prosecutor has opposed application for bail, however, admitted that the case of prosecution is based on circumstantial evidence and for that purpose has referred to statement of mother of applicant wherein she stated that at the time of incident when she arrived in the house, she found applicant sitting outside the house while on her entry inside the house, noticed dead body of Latesh lying in the pool of blood. Another circumstance put forth by learned Additional Public Prosecutor is with regards to further statement of mother wherein she has stated about quarrel which took place between deceased and applicant on the day of incident in the morning hours. By referring to further statements, it is submitted that though statements established fact of deceased of troubling applicant as well as his mother on account of money in order to fulfill his habit of consuming liquor and has thus contended that for this reason it is applicant who had done away with the deceased.

Considering case of prosecution as put forth, it is to be noted that admittedly there are no eyewitnesses

and as such there is no direct evidence establishing involvement of applicant. Admittedly report was initially lodged against unknown person on finding dead body of deceased in his own house. The involvement of applicant is only of his being present outside the house while the dead body was found inside the house. This circumstances by itself, at this stage, cannot weigh much in favour of prosecution, in view of admitted fact that applicant being elder brother of deceased, and as such applicant was resident of the same house. It is no case of prosecution that applicant was residing separately from his mother and deceased. In that view of the matter, presence of applicant at his own house is but natural.

Having considered the facts as aforesaid, application is liable to be allowed by imposing suitable conditions as per order below.

Order

- (i) Applicant shall be released on bail on his executing P.R. Bond in the sum of Rs.25,000/- with one surety in the like amount.
- (ii) While on bail, applicant shall mark his presence with Katol Police Station, District Nagpur quarterly on the first day of each such month.
- (ii) Applicant shall produce proof of residence and shall update the same in the event of change in

near future.

Application is accordingly allowed.

JUDGE

adgokar