

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

CRIMINAL APPLICATION (BA) NO.65 OF 2017

Sau. Pushpabai w/o Tukaram Dhoke and anr

..VS..

The State of Maharashtra, through Police Station Officer, Police Station Manora,
Tahsil Manohra, District Washim

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

Court's or Judge's Order

Shri R.M. Daga, Counsel for the Applicants.

Shri H.R. Dhumale, Addl.P.P. for the Non-applicant/State.

CORAM : P.N. DESHMUKH, J.

DATED : FEBRUARY 20, 2017.

Applicant No.1 mother, and No.2 her daughter respectively have applied for bail in Crime No.141 of 2016 registered for the offences punishable under Sections 302 and 201 read with Section 34 of the Indian Penal Code.

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

It is submitted on behalf of applicants that applicant No.2 was married to deceased Sachin. It was a love marriage. However, it was not accepted by her parents, and other family members and thus her deceased husband was called to Pusad on the false pretext to attend some marriage in their relation and was taken to place called Poharadevi where he was

strangled and causing his death, in order to destroy evidence body was set on fire.

It is further stated that having noticed dead body in the filed, report was lodged by the field owner on 26.5.2016 and accordingly offence came to be registered against unknown person.

Learned counsel for the applicants has submitted that applicants are arrested on 12.9.2016, after almost three and half months of incident and even according to the case of the prosecution involvement of applicants is only of their knowledge of crime committed by co-accused. It is, therefore, submitted that since the charge-sheet is filed, no role is attributed to any of applicants to have committed murder of deceased Sanchin, application is prayed to be allowed.

Learned Additional Public Prosecutor has opposed the application as per its reply on record and has submitted that on 31.5.2016 missing report was lodged by mother of deceased and in inquiry initiated on the basis of search report, on 18.8.2016 when applicants came to be interrogated by police, their involvement in the present crime came to be revealed when it was found that applicant Shivani has misled the investigating officer by not giving correct facts thereby stating that she alone went to Pusad and that deceased was not accompanying her.

Learned Additional Public Prosecutor has

further contended that from the documents filed with the charge-sheet it thus appears that both applicants having full knowledge of crime committed by co-accused in spite of that they did not disclose said facts during the course of investigation and as such conduct on the part both applicants is unnatural and has submitted that their application be rejected.

Considering the facts and submissions on behalf of both applicants as aforesaid, admittedly it is found that it is no case of prosecution that applicants were in any way instrumental in causing death of deceased Sachin, even according to its say it is revealed that applicants in spite of having knowledge of crime committed by co-accused failed to disclose the same to police nor lodge report thereof and thus applicants' conduct is said to be unnatural. It is material to note that case of the prosecution is based on circumstantial evidence. There are no eyewitnesses nor provisions of Section 120B of the Indian Penal Code alleging conspiracy by applicants in the present crime are applied.

In view of the facts as aforesaid and since investigation is complete and applicants are in jail since the date of arrest, application is liable to be allowed by imposing the conditions, as per order below:

Applicants shall be released on bail on their executing P.R. Bond in the sum of Rs.50,000/- each with

one surety each in the like amount.

While on bail, applicants shall attend Manora Police Station, District Washim once in three months on the first day of each such month between 11:00 a.m. and 4:00 p.m., pending Trial.

JUDGE

!! BRW !!

C E R T I F I C A T E

I certify that this Order/Judgment uploaded is a true and correct copy of original signed Order.

Uploaded by : Bhushan R.Wankhede.
(Personal Assistant)

Uploaded on :- 22/2/2017