

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

CRIMINAL APPLICATION (BA) NO.529/2017

Sheikh Babu Sheikh Habib

..Vs..

The State of Maharashtra, through its Police Station Officer, Police Station,
Pusad Gramin, Distt. Yavatmal (M.S.)

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, Adv. for the applicant.
Shri S.P. Deshpande, A.P.P. for the respondent / State.

CORAM : Z.A.HAQ, J.

DATE : 19.6.2017.

Heard.

The applicant is arrested on 13th February, 2017 in crime which was initially registered against unknown persons, however, names of 4 accused including the applicant came to be added subsequently, for the offence punishable under Sections 302 and 201 read with Section 34 of the Indian Penal Code.

The application is opposed mainly on the ground that the widow of deceased Mujaffar has stated that when deceased went out of his house alongwith co-accused Shaikh Wasim on 4th February, 2017 at about 9.30 p.m. deceased Mujaffar had received a phone call from the present applicant and the deceased had told the

applicant on phone that he was coming to the market. The investigating agency, relies on the statement of Sohail Khan (aged about 12 years) who has stated that on 5th February, 2017 at about 4 a.m. his elder maternal uncle came to the room where he was sleeping with his younger maternal uncle, wake up the younger maternal uncle and told him that deceased Mujaffar had gone with Wasim and Chhotu for stealing tuwar from the field, however, the owner of the field came there because of which all three ran away and while running deceased fell in a well which is abutting the field of Sohail Khan's maternal grand-mother.

The claim of the investigating agency that applicant is involved in the crime is based on circumstantial evidence. The applicant, aged about 30 years, claims to be an Agriculturist and is a married person living with his wife and parents. The applicant has stated that he is not involved in any other crime / offence. These facts are not controverted by the non-applicant.

The charge-sheet is filed on 6th May, 2017. The non-applicant has not been able to show that the custody of applicant is required for further investigation.

Considering the above facts, the following order is passed:

The applicant having been arrested in Crime No.60/2017 registered by the non-applicant, he be released on bail on executing P.R. bond for Rs.50,000/- (Rs. Fifty Thousand) and furnishing two solvent sureties

in the like amount. The application is **allowed** in the above terms.

JUDGE

Tambaskar.