

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

**CRIMINAL APPLICATION (BA) NO. 768 OF 2017**

( Azim Qadir Beg..vs..The State of Maharashtra, through PSO.PS.Sitabuldi,Nagpur).  
Office Notes, Office Memoranda of Coram,  
appearances, Court's orders of directions  
and Registrar's Orders.

Court's or Judge's orders.

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Shri C.R.Thakur, Advocate for applicant.

Shri J.Y.Ghurde, A.P.P. for State-non-applicant.

**CORAM : V.M. DESHPANDE, J.**

**DATED : AUGUST 21, 2017**

This is an application under Section 439 of Code of Criminal Procedure for grant of bail.

Heard learned advocate for applicant and learned A.P.P. for State- non-applicant. Also perused the reply so also the chargesheet.

The applicant is arrested on 27/5/2016 in connection with Crime No.226/2016 registered with P.S.Sitabuldi,Nagpur for the offence punishable under Sections 302,201,363,364 r/w Section 34 of the Indian Penal Code.

All other co-accused are released on bail by learned Judge of the Court below.

The first information report was lodged by Vinod Pande on 26/5/2016. On the basis of said report offence under Section 363 r/w Section 34 of the Indian Penal Code was registered against unknown persons.

As per the chargesheet, the available evidence against the present applicant i) extra judicial confession ii) last seen theory iii) memorandum statement of the applicant

and consequent recovery of the weapon i.e. hammer and iv) the blood stained clothes of the applicant.

The dead body of the deceased Pramod Pande was retrieved from gutter at Sitabuldi on 27/5/2006. On 31/5/2016 statement of one Krishna Binzade is recorded. As per the said statement, on 25/5/2016 when he was doing his lemon business on his cart, that time co-accused one Himanshu Pande and one Kachara @ Roshan came and they disclosed that present applicant has killed deceased. His Statement under Section 164 of Code of Criminal Procedure is also recorded which is totally silent about the exculpatory statement made by him with prosecution witness Krishna.

So far as the last seen theory is concerned, the investigating officer has recorded the statement of one Atul Nirwan. Though the police had been to his shop, it appears that on 26/5/2016 and 27/5/2016, his statement is recorded on 31/5/2016 without there being any plausible explanation for late recording of police statement.

In so far as recovery is concerned, the recovery is made from the hut of one Sahida Beg. The prosecution at least at this stage is silent pointing out his connection with Sahida Beg. Further Sahida Beg statement is also not recorded.

All other accused persons are released on bail. In view of the aforesaid nature of the evidence, in my view further custodial presence of the applicant is not required. However, it is made clear that the observations made by this Court are only for deciding the application for bail and it should not be construed by learned Judge of the Court below as the opinion of this Court while conducting the trial. Hence,

the order.

**ORDER**

- I) The application is allowed.
- II) Applicant Azim Qadir Beg be released on bail in Crime No.226/2016 registered with P.S.Sitabuldi, Nagpur for the offence punishable under Sections 302,201,363,364 r/w Section 34 of the Indian Penal Code on he executing P.B. of Rs. 25000/- with two solvent sureties in the like amount .
- III) The applicant shall attend P.S.Sitabuldi,Nagpur once in a week i.e. every Sunday in between 3.00 p.m. to 5.00 p.m. till culmination of the trial.
- IV) With this the application is disposed of.

**JUDGE**

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