

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

NAGPUR BENCH, NAGPUR.

CRIMINAL APPLICATION(BA) 895 OF 2017

(Dhammanand Manikrao Borkar..vs..State of Maharashtra,
through PSO.PS. Hudkeshwar,Nagpur.)

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

Shri B.H.Tekam, Advocate for applicant.

Shri Indranil Damle, A.P.P. for State-non-applicant.

CORAM : V.M. DESHPANDE, J.

DATED : SEPTEMBER 18, 2017

This is an application for regular bail.

2] Heard learned counsel for applicant and
learned A.P.P. for State.

3] The applicant is arrested in connection with
Crime No.542/2016, registered with P.S.Hudkeshwar,
Nagpur, for the offence punishable under Sections
302,452 r/w Section 34 of the Indian Penal Code.

4] The investigating agency has already
completed its entire investigation and chargesheet is
already filed before the Court of law.

5] The first informant is not eye witness. Her
name is Smt. Priya Sanjay Tiwari, aged 37 years, R/o
Flat No.201, Minawari Apartment, Sarvadhny Square,
Swagatnagar, Bobde layout, Narsala Road, Nagpur. The
name of deceased Pankaj @ Golu Munnaprasad Tiwari.
The deceased is brother of first informant.

6] The F.I.R. is lodged on 17/12/2016. From the F.I.R. it is clear that deceased was bachelor and he was habituated to drinks. The F.I.R. shows that on 16/10/2016 i.e. one day prior to lodging of the F.I.R. deceased had been to the place of the first informant and that time he informed that he was beaten by one Lahanya @ Mansaraj Meshram who is shown as accused no.1 in the crime. The F.I.R. states that on 17/12/2016 one Baba, the friend of deceased and first informant's uncle Sanjay Jain had been to her house and informed that somebody had killed her brother in his house. She therefore lodged report in P.S.Hudkeshwar raising suspicion against Lahanya @ Mansaraj Meshram.

7] According to chargesheet, the material that is available against the present applicant is concerned is his extra judicial confession with two prosecution witnesses. Their statements are recorded on second day i.e. 18/12/2016. The weapon of crime is discovered at the instance of accused no.1 Lahanya @ Mansraj Meshram. When his clothes were seized they were found to be stained with blood.

8] Nothing is recovered at the instance of the present applicant. Though his clothes are seized, the learned A.P.P. states that no blood stains were noticed on the clothes of the present applicant.

9] The extra judicial confession is a weak type of evidence. No doubt, true that it may be, still it may be basis for conviction. However, for the said Court always

requires corroborative piece of evidence. In the present case, as observed there is no recovery at the hands of the present applicant nor the clothes were found to be stained with the blood. The applicant is in jail since 18/12/2016. That the aforesaid evidence, in my view the further incarceration of the applicant in the jail is not necessary. Hence, order.

ORDER

- I) The application is allowed.
- II) Applicant Dhammanand S/o Manikrao Borkar be released on bail in Crime No.542/2016, registered with P.S.Hudkeshwar, Nagpur, for the offence punishable under Sections 302,452 r/w Section 34 of the Indian Penal Code on he executing P.R.Bond of Rs. 25,000/- with two solvent sureties in the like amount.
- III) The applicant shall attend P.S.Hudkeshwar, Nagpur once in a month, preferably 3rd Friday of every month in between 3.00 p.m. to 5.00 p.m. till the culmination of the trial.
- IV) The applicant shall not extend any type of threats to the prosecution witnesses.
The application is dispose of.

JUDGE