

IN THE HIGH COURT OF JUDICATURE AT BOMBAY:
NAGPUR BENCH : NAGPUR
Criminal Application [BA] No. 994 of 2017
[Anil Wamanrao Nathe Vs. State of Mah., Katol PS, Distt. Nagpur]

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

Court's or Judge's orders

Mr. A. A. Naik, Adv., for the applicant.
Mr. J. Y. Ghurde, APP for non-applicant.

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CORAM : A.S. CHANDURKAR, J.

DATE : 14th November, 2017

The applicant who has been arrested on 12th March, 2017 in connection with Crime No. 134/17 registered at Katol Police Station for the offences punishable under Sections 302, 364, 365, 120-B and 201 read with Section 34 of Indian Penal Code, seeks his release on bail

As per the First Information Report lodged by one Sau. Sheela Gopal Nathe, her husband - Gopal was found missing from 15th February, 2017. According to her, her husband had left the village with two boys and had proceeded towards Paradsinga. As the husband did not return, initially a missing report was lodged. Thereafter, on 11th March, 2017, a further report came

to be lodged against unknown persons. During the course of investigation, three accused including the present applicant came to be arrested. According to the prosecution, said Gopal was done away with at the instance of the present applicant who is the brother of Gopal as the deceased was indulging in black magic resulting in loss being caused to the applicant's family. The applicant is alleged to have asked the accused nos. 1 and 2 to do away with his brother by promising them payment of amount of Rs. 50,000/-.

It is submitted on behalf of the applicant that he has been falsely implicated. The only material against him is the statement of the co-accused no.1. It is alleged that though the deceased was missing from 15th February, 2017, the report came to be lodged only on 11th March, 2017. Merely because the relations between the two brothers were strained, the present applicant has been implicated. The material collected by the prosecution against the present applicant is not sufficient to convict the applicant. As the charge-sheet has now been filed, the applicant is entitled to be enlarged on bail.

The application is opposed by the learned Addl. Public Prosecutor. According to him, the applicant had promised the accused nos. 1 and 2 payment of sum of Rs.50,000/- for committing the murder of his brother. The evidence collected including the Call Detail Records

[CDRs] clearly implicates the applicant. He is alleged to have pledged his gold ornaments and has obtained a sum of Rs.28,000-00. In the identification parade, the present applicant has been identified. It is, thus, submitted that there is no case made out to release the applicant on bail.

Perused the First Information Report as well as the material accompanying the charge-sheet. The statement of accused no.1 recorded under Section 27 of the Evidence Act refers to the contract being given by the present applicant for doing away with his brother. The Call Detail Records indicate conversation between the accused persons. However, all the accused are from the same village. The person from where the amount has been borrowed by pledging gold ornaments is the Society of which the applicant is a member since December, 2015. The charge against the applicant herein is principally under Section 120-B of the Indian Penal Code. The case is based on circumstantial evidence.

Considering the fact that applicant was not initially doubted when the deceased was missing, coupled with the nature of material collected against the present applicant and as the charge-sheet has now been filed, I am inclined to release the applicant on bail, subject to imposing conditions.

Accordingly, the applicant, who has been arrested pursuant to Crime No. 134/17 registered at Katol Police Station for the offences punishable under Sections 302, 364, 365, 120-B and 201 read with Section 34 of Indian Penal Code, is directed to be released on bail on furnishing a Personal Bond of Rs.50,000-00 [rupees fifty thousand only] with one surety in the like amount. The applicant after his release on bail shall not enter the jurisdiction of Katol Police Station till the completion of trial. He shall co-operate with the Sessions Court in the conduct of trial. He shall not take any steps to influence the prosecution witnesses.

By clarifying that the observations made in this order are only for deciding the bail application, the same is allowed and disposed of.

Judge

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