

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

CRIMINAL APPLICATION (BA) NO.1011 OF 2017

Akram Khan s/o Munir Khan Pathan, Fakir Mohalla, Ward No.4, Nagbhid, Dist. Chandrapur
-vs-
State of Maharashtra, Thr. PSO, PS Sakoli, Dist. Bhandara

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

Court's or Judge's Orders.

Shri R. M. Daga, Advocate for applicant.
Shri K. L. Dharmadhikari, APP for non-applicant/State.

CORAM : A.S.CHANDURKAR, J.
DATE : November 07, 2017

Heard.

The applicant who has been arrested on 04/05/2016 in connection with Crime No.62/2016 registered with Police Station Sakoli, Dist. Bhandara for the offence punishable under Sections 364, 365, 302, 201, 120(B) read with Section 34 of IPC seeks his release on bail.

As per the First Information Report dated 24/04/2016 lodged by one Maya Motghare, one Namdeo Bawne with whom she had a relationship, was found missing. According to the informant it was learnt that said Namdeo Bawne was abducted by three persons in a white car. Accordingly a report came to be lodged. On 26/04/2016 the dead body of said Namdeo Bawne was found. During the course of investigation, the applicant was arrested on 04/05/2016.

It is submitted on behalf of the applicant that the case of

the prosecution is based on circumstantial evidence. There is no eye-witness who has seen the occurrence. The only material available against the present applicant is the mobile phone of the deceased which is alleged to be given by the applicant to his cousin brother. It is submitted that the clothes worn by the accused were seized and as per the report of the Chemical Analyser no blood has been found thereon. Except the aforesaid material there is no other evidence against the present applicant. It is further submitted that the other accused Amit is released on bail.

The application is opposed by the learned Additional Public Prosecutor by relying upon the reply. It is submitted that seizure of the mobile phone as well as discovery of the spot where the dead body was found at the instance of the present applicant are material circumstances for implicating the applicant. The other recoveries effected also indicate involvement of the present applicant and hence considering the seriousness of the offence, the applicant does not deserve to be released on bail.

Perused the First Information Report as well as the charge-sheet. According to the prosecution, the mobile handset belonging to the deceased was found in the possession of one Asif. The applicant is related to said Asif and as per the statement of Asif said handset was given to him by the present applicant. The report of Chemical Analyser does not indicate any blood stains on the applicant's clothes. Perusal of the order passed in Criminal Application (BA) 754/2017 indicates

consideration of this report of the Chemical Analyser while accepting the applicant's prayer therein for enlarging him on bail. Thus except for recovery of the mobile handset, there is no material present with the prosecution against the applicant. Considering the fact that the charge-sheet has now been filed and the applicant was arrested in May 2016, a case for releasing him on bail has been made out.

Accordingly, the applicant who has been arrested on 04/05/2016 in connection with Crime No.62/2016 registered with Police Station Sakoli, Dist. Bhandara for the offence punishable under Sections 364, 365, 302, 201, 120(B) read with Section 34 of IPC is directed to be released on bail on furnishing PR Bond of Rs.25,000/- (Rupees Twenty Five Thousand) with one surety in the like amount.

The applicant shall co-operate in completion of the trial by attending the same regularly. He shall not take any steps to influence the prosecution witnesses.

The observations made in this order are only for deciding this application which is allowed and disposed of.

JUDGE