

IN THE HIGH COURT OF JUDICATURE AT BOMBAY:
NAGPUR BENCH : NAGPUR
Criminal Application [BA] No.1076 of 2017
[Ishant Pramodrao Nikhar Vs. State of Mah., Purada PS, Distt. Gadchiroli]

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

Court's or Judge's orders

Mr. R. R. Vyas, Adv., for the applicant.
Mr. Ghodeswar, APP for non-applicant.

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CORAM : A. S. CHANDURKAR, J.

DATE : 23rd November, 2017

The applicant who has been arrested on 17th June, 2017 in connection with Crime No. 22/17 registered at Purada Police Station, Distt. Gadchiroli for the offences punishable under Sections 302 and 328 read with Section 34 of Indian Penal Code seeks his release on bail.

As per the report dated 18th March, 2017 lodged by one Tulsabai, on the said date, there was a naming ceremony of the daughter of her brother. During the course of said celebration, after the guests had some food, two of the guests, Umesh and Jitendra, started

filling uneasy after consuming liquor and they subsequently expired. Initially, a Marg came to be recorded and after investigation, the crime came to be registered. It is the case of the prosecution that at the instance of the applicant herein, poison was administered to Tulshiram as the applicant was having an affair with his wife - Lata. During the course of investigation, the applicant was arrested.

It is submitted on behalf of the applicant that the case of the prosecution is based on circumstantial evidence. There is no material to connect the applicant herein with the said crime. He referred to the statements of various witnesses and submitted that the applicant herein was first introduced to said witnesses and the purpose of recording their statements was then told to them. On the basis of such evidence, the applicant is being tried. It is then submitted that the alleged confessional statements are recorded more than three months after the alleged incident. The cause of death of Tulshiram is on account of head injuries which, therefore, falsify the case of the prosecution. There was no test identification parade conducted by which the applicant could be identified. It is, therefore, submitted that as the entire investigation is complete and charge-sheet has been filed, the applicant deserves to be released on bail.

The application is opposed by learned Addl.

Public Prosecutor by relying upon the reply. It is submitted that the evidence collected clearly implicates the applicant herein. There was a motive in doing away with Tulshiram as the applicant had an affair with his wife. The place from where the liquor bottle was purchased as well as the place from where the insecticide was purchased have been identified and the statements recorded clearly show involvement of the applicant. It is, therefore, submitted that the application deserves to be rejected.

Perused the First Information Report as well as the charge-sheet.

The case of the prosecution is based on circumstantial evidence. Perusal of statements of the persons who sold the liquor, insecticide as well as the syringe indicate that the applicant was first introduced to them and purpose for recording the said statements was explained to the witnesses, after which the same came to be recorded. The confessional statements are recorded more than three months after the alleged incident. Considering the nature of material available on record, I find a case made out for enlarging the applicant on bail.

Accordingly, the applicant who has been arrested in connection with Crime No. 22/17 registered at Purada Police Station, Distt. Gadchiroli for the offences

punishable under Sections 302 and 328 read with Section 34 of Indian Penal Code is directed to be released on bail on furnishing a personal bond of Rs. 25,000-00 [rupees twenty-five thousand only] with one surety in the like amount. The applicant shall co-operate in completion of the trial and he shall not take 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

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