

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

CRIMINAL APPLICATION (BA) NO.1075 OF 2016

Shri Ganesh S/o Devrao Kannake

..VS..

**State of Maharashtra, through its P.S.O., Police Station – Gadchiroli, Tahsil and
District – Gadchiroli**

AND

CRIMINAL APPLICATION (BA) NO.1076 OF 2016

Shri Mangesh S/o Devrao Kannake

..VS..

**State of Maharashtra, through its P.S.O., Police Station – Gadchiroli, Tahsil and
District – Gadchiroli**

AND

CRIMINAL APPLICATION (BA) NO.1077 OF 2016

Shri Vijay S/o Digamber Barapatre,

..VS..

**State of Maharashtra, through its P.S.O., Police Station – Gadchiroli, Tahsil and
District – Gadchiroli**

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

Court's or Judge's Order

Shri Abdul Subhan, Counsel for the applicants.
Shri A.V. Palshikar, Addl.P.P. for non-applicant/State.

CORAM : P.N. DESHMUKH, J.

DATED : JANUARY 12, 2017.

Heard.

**All these three applications filed for bail are
decided by this common order as they are arising out of
Crime No.116 of 2016 registered under Section 304(b)
read with Section 34 of the Indian Penal Code.**

**Applicant Mangesh is husband of deceased
Shephali while applicant Ganesh is brother and**

applicant Vijay is brother-in-law of Mangesh.

Learned counsel for the applicants has submitted that charge-sheet in the present crime is filed and in the entire charge-sheet no involvement of applicant Ganesh can be said to be established. Similar are the submissions with reference to Applicant Vijay, brother-in-law of Mangesh. It is also contended that applicant Ganesh was residing separately from applicant Mangesh and deceased Shephali. By referring to statements on record, it is pointed out that involvement of applicants is based on statements recorded belatedly after two months from the day of the incident and has further contended that in fact it is Mangesh, husband of deceased, who had admittedly lodged missing report on 28.5.2016 while dead body of deceased came to be found near a well on the following day. By referring to contents of report, it is contended that same is lodged by father of deceased on suspicion after 22 days from incident. In that view of the matter, it is submitted that applications be allowed.

Learned Additional Public Prosecutor has opposed the applications as per reply and has submitted that applicants have planned the incident and to materialize the same, applicant Mangesh on 28.5.2016 has lodged false missing report though deceased Shephali was very much residing with him on that day. To substantiate case of prosecution, learned Additional

Public Prosecutor has relied upon statements of witnesses on record who had stated that on 28.5.2016 they have seen Mangesh along with deceased Shephali. It is, therefore, prayed that applicants are directly involved for unnatural death of deceased whose dead body was found in a well and has submitted that applications be rejected.

F.I.R. reveals that same is filed on 19.6.2016 with reference to incident dated 29.5.2016. Even according to the report, only suspicion is raised on applicants. After recording report on 19.6.2016, additional statement of complainant is recorded after two months wherein it is stated by father of deceased that on 27.5.2016 he was informed by his wife that on that day she had met their daughter in the house of Lalita Sonpipre where she complained against applicant Mangesh to have demanded dowry and alleging that on that count she was subjected to ill-treatment.

Similar is the statement of wife of complainant Lalita. However, it is material to note that all these statements are recorded after two months of the incident. Nothing could be placed on record as to why there is delay caused in recording these statements of these witnesses. Even otherwise, according to these statements, involvement of applicant Mangesh is only to some extent established as there is no mention of either Ganesh or Vijay in these statements of Lalita,

mother and complainant, father.

In that view of the matter and since investigation is complete, applications are liable to be allowed by imposing suitable conditions though from statements of Sanjay Gavhare and Sadashiv Barsagde relied by prosecution they claim to have seen deceased Shephali in the company of applicant Mangesh on 28.5.2016, their statements *prima facie* do not appear to be convincing to be relied upon as they are recorded two months after the incident.

In that view of the matter, though such statements are relied by learned Additional Public Prosecutor to establish involvement of applicant Mangesh who have lodged false missing report, these statements since are doubtful contents thereof though considered are not sufficient to reject applications. Hence, the following order :

ORDER

1. The criminal applications are allowed.
2. Applicants shall be released on bail on their executing P.R. Bond in the sum of Rs.25,000/- each with one surety each in the like amount.
3. While on bail, applicants shall mark their presence with Police Station Gadchiroli, Tahsil and District Gadchiroli quarterly on

the first day of each such month, pending trial.

The applications are disposed of accordingly.

JUDGE

!! BRW !!

C E R T I F I C A T E

I certify that this Order/Judgment uploaded is a true and correct copy of original signed Order.

Uploaded by : Bhushan R.Wankhede.
(Personal Assistant)

Uploaded on :- 13/1/2017