

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

CRIMINAL APPLICATION (BA) NO.4/2018

Babbu s/o Sukhlal Yadav

..vs..

The State of Mah., thr. Police Inspector, Police Station : Gadchandur, Tahsil Korapna,
District Chandrapur

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

Court's or Judge's Order

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Shri R.M. Tahliyani, Counsel for the applicant.

Shri M.K. Pathan, Addl.P.P. for the State.

CORAM : V.M. DESHPANDE, J.

DATED : JANUARY 19, 2018.

1. Heard learned counsel Shri R.M. Tahliyani for the applicant and learned Additional Public Prosecutor Shri M.K. Pathan for the State.

2. This is an application for bail since the applicant is arrested in connection with Crime No.514/2017 registered with Police Station Gadchandur, Tahsil Korpana, District Chandrapur for the offences punishable under Sections 302 and 201 read with Section 34 of the Indian Penal Code.

3. Initially, a missing report was lodged by Nitin Sharma on 6.9.2017 in respect of missing of his father, a contractor that he was not traceable. His body was found in a Well. During the course of the investigation, the investigating officer arrested 3 accused persons. The applicant is accused No.1, accused No.2 died, and accused No.3 Shivcharan s/o Durgaprasad Kewat is already released

on bail by this Court (Coram : A.S. Chandurkar, J.) on 30.11.2017, i.e. even prior to filing of the charge-sheet.

4. In the present case, the charge-sheet is already filed. There is no eyewitness account in the prosecution case.

5. The circumstances against the applicant are that the applicant has made extra judicial confession to his wife and recovery of stick at his behest.

6. With the assistance of learned counsel Shri R.M. Tahliyani for the applicant and learned Additional Public Prosecutor Shri M.K. Pathan for the State, I have seen statements of the wife of the applicant and also wife of Shivcharan Kewat who is already released on bail. Their statements show that the applicant and Shivchara used to work as labourers with deceased Subhash Sharma, a contractor. Their statements show that the deceased used to keep bad eyes on those two ladies and used to exploit them by taking disadvantage of their financial condition and looking to the fact that their husbands are working with him.

7. Looking to the facts that there is no eyewitness account; the charge-sheet is already filed; only the evidence against the applicant is extra judicial confession; his memorandum statement, and in view of the statements of their wives, it is quite possible that during the Trial the offence may be scaled down to lesser offence. Hence, I pass the following order:

ORDER

(a) The criminal application is allowed.

(b) Applicant Babbu s/o Sukhlal Yadav, be released on bail on his execution a P.R. Bond in the sum of Rs.10,000 with one solvent surety of the like amount, in connection with Crime No.514/2017 registered with Police Station Gadchandur, Tahsil Korpana, District Chandrapur for the offences punishable under Sections 302 and 201 read with Section 34 of the Indian Penal Code.

(c) It is made clear that the observations made in this order are purely for deciding the application for grant of bail only and learned Judge of the Court below, who shall be trying the case, shall not get influenced by the observations made in this order.

(d) With this, the criminal application is allowed and disposed of.

JUDGE

!! BRW !!

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