

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

CRIMINAL APPLICATION (BA) 644 OF 2018

(Amit s/o. Suresh Gaigole..vs.. State, thr PSO, PS Asegaon, Tq. Chandur Bazar)

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

Court's or Judge's orders.

Shri D.S. Khushlani, counsel for applicant.
Shri N.B. Jawade, APP for non-applicant.

CORAM: ROHIT B. DEO, J.

DATE: 30th July, 2018.

Heard.

2 The applicant is arrested in Crime 25 of 2018 registered with Asegaon Police Station for offence punishable under section 302 read with section 34 of the Indian Penal Code on the basis of complaint lodged by the sister in law of the applicant.

3 The prosecution case is that the applicant's brother Pawan Gaigole was in a relationship with the complainant. From the relationship, a male child was born on 25.8.2017. The applicant, his brother and sister in law Swati took the new born child from the complainant on the pretext of showing the child to their parents.

4 The case of the prosecution appears to be that the child died in the custody of the applicant and the other co-accused and was buried near Asegaon in front of a petrol pump and on 27.8.2017, co-accused Pawan informed the complainant that the child expired on the way.

5 It is not disputed that the brother of the applicant

Pavan married the complainant on 23.11.2017. On 22.1.2018, the complainant lodged a report against her husband Pawan, the applicant and Swati alleging that the child was done to death.

6 The corpus delicti of a child is not recovered since the land where the child was buried, was excavated for some public project.

7 The report, which is lodged belatedly, prima facie, appears to be fall down of a marital discord between the brother of the applicant Pawan and his wife, the complainant.

8 In the light of the accusations and the material on record, this application shall have to be allowed. The applicant is in custody since January 2018 and it is not even the case of the prosecution that the applicant shall not be available for trial or that he would be in a position to tamper with the evidence.

9 The application is allowed.

10 The applicant be released on furnishing personal bond of Rs. 15,000/- with a solvent surety of the like amount.

11 The applicant shall attend the dates of hearing regularly and shall cooperate in expeditious disposal of the trial.

12 The applicant shall not tamper with the evidence

nor shall he directly or indirectly attempt to influence the witnesses in any manner.

JUDGE

RSB