

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

Criminal Application (BA) No.368 of 2019
(Kartik Manohar Raut .vs. State of Maharashtra through PSO PS Amgaon,
Dist. Gondia.)

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

Mr. V.S. Mishra, Advocate for Applicant.
Mr. V.P. Maldhure, APP for Non-applicant/State.

CORAM : Manish Pitale, J.
DATED : June 24, 2019.

The applicant herein is one of the four accused persons against whom offence under Section 302 read with 34 of the IPC has been registered as per FIR dated 15.12.2018. The case of the prosecution is that on 14.12.2018, deceased i.e. the sister-in-law of one of the accused was found dead and upon investigation, it was found that the said brother-in-law of the deceased along with the applicant herein and two others were responsible for her death.

2. The allegations against the main accused i.e. brother-in-law of the deceased are that he had caused the death of the deceased for the reason firstly that he was having a relationship with her and secondly that there was an insurance policy that he had taken in her name, the premium of which he was depositing and that he was to benefit from her death. The allegation against the applicant herein is that he was involved by the said main accused to carry out the act of

strangulation and slitting the throat of the deceased on 14.12.2019.

3. The learned counsel for the applicant has submitted that other than the statements given by the co-accused persons, there was nothing on record to even remotely connect the applicant with the said incident. It was submitted that in this situation, since the applicant has been behind bars from 18.12.2018 and the investigation is complete and the charge-sheet has also been filed, no further purpose would be served by continuing the custody of the applicant.

4. On the other hand, the learned APP submitted that the applicant was actively involved in the present case and the recovery of knife was made at the behest of the applicant herein and that there were call detail records of the mobile numbers of the accused persons, indicating that the applicant was in touch with the main accused and that he had participated in the said incident.

5. Heard learned counsel for the rival parties and perused the material placed on record. In the present case, it appears that the thrust of the prosecution case is against the main accused i.e. Narendra Meshram, who was the brother-in-law of the deceased. It is alleged that other accused, including the applicant herein, actively participated in assisting the said main accused in causing the death of his sister-in-law. From the material placed on record, other than call

detail records of mobile phone, the learned APP is unable to show to this Court as to how the applicant is said to be connected with the incident in question. Even the call detail records would at best indicate that the main accused person was in touch with the applicant herein. On a pointed query made with regard to the question as to whether there was any recovery of blood/semen stained clothes and whether the reports of the chemical analysis were available from the samples sent to the Laboratory, it was stated on behalf of the non-applicant/State that the report of the chemical analysis was awaited. Therefore, at this stage, it appears that the allegations that the applicant and other accused persons raped the deceased before killing her, at least insofar as the applicant herein is concerned, are not supported by report of Chemical Analyzer. It is also not pointed out that any such material was found on the person of the applicant or the deceased to connect the present applicant in the said incident.

6. There is also no statement of any witness to the effect that the applicant was last seen together with the deceased on the date of the incident. Therefore, at this stage, it appears that the non-applicant/State is yet to bring on record the material to show that a strong *prima facie* case is made out against the applicant.

7. In this situation, this Court is of the opinion that the present application can be conditionally allowed.

8. Accordingly, the application is allowed and the applicant is directed to be released on bail on the following conditions:-

(i) The applicant shall furnish P.R. bond of Rs.50,000/- (Rs. Fifty Thousand) and a surety in the like amount.

(ii) The applicant shall remain present before the trial Court on each and every date of proceedings.

(iii) The applicant shall not influence the witnesses.

9. Needless to say that violation of any of the above conditions, shall lead to cancellation of bail granted to the applicant. It is further made clear that the observations made in this order are limited to the question of grant of bail to the applicant.

JUDGE

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