

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

Criminal Application (BA) No. 499 of 2019

Nikhil Pendam

Vs.

State of Mah. Through P.S. Samudrapur Dist. Wardha

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

Court's or Judge's orders

Mr. Mahesh Rai, Advocate for applicant
Mr. M.J. Khan, APP for non-applicant.

CORAM : MANISH PITALE, J.

DATED : JULY 18, 2019

The applicant herein has approached this Court for grant of bail as he stood arrested on 07/02/2018, in connection with FIR dated 06/02/2018, for an offence under Section 302 of the Indian Penal Code.

2. Initially, in the FIR it was recorded that unknown person has caused the death of the victim i.e. the husband of the complainant. In the oral report, leading to registration of FIR, the complainant stated that she had suspicion on the residents of village Parsodi, who had grudge against her husband as he was allegedly indulging in black magic. The incident is said to have taken place on 05/02/2018. Two accused persons were arrested on 06/02/2018 and it has come

on record that they gave a statement that only the two of them had assaulted the victim, leading to his death. It appears that thereafter statements were given by accused persons implicating others, including the applicant herein.

3. Although, it is alleged that the applicant had assaulted the victim with iron rod, such claim is based only on the statement of co-accused.

4. The present case is admittedly a case of circumstantial evidence as there is no eye witness to the incident, which led to the death of the victim. The investigation is complete and charge-sheet has been already filed on 05/05/2018. As per the material that has come on record it does not appear that the prosecution is claiming any last scene theory to connect the applicant with the incident in question. Therefore, it appears that other than statement of the co-accused, there is presently no material on record to directly connect the applicant with the incident, leading to the death of the victim. There is no recovery of any weapon of assault or blood stained clothes, etc. at the behest of the applicant and, therefore, this Court is of the opinion that a case for grant of bail is made out.

5. In view of the above, the present application is allowed and the applicant is directed to be released

on bail on following conditions :

- a) The applicant shall furnish PR bond of Rs.25,000/- and surety in the like amount.
- b) The applicant shall attend the proceeding before the Trial Court on each and every date.
- c) The applicant shall not tamper with the evidence or influence the witnesses.

JUDGE