

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

Criminal Application (BA) No. 536 of 2019

Ganesh Makram

Vs.

State Through P.S. Aroli Dist. Nagpur.

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

Court's or Judge's orders

Mr. S.S. Jaiswal, Advocate for applicant
Mr. A.D. Sonak, APP for non-applicant.
Mr. S.R. Chakravarti, Advocate for the complainant.

CORAM : MANISH PITALE, J.

DATED : JULY 22, 2019

The applicant herein is seeking bail as he stood arrested on 17/05/2019, in connection with an FIR registered on the same date against him and four other accused persons for offences under Sections 302, 201, 120-B R/w 34 of the Indian Penal Code.

2. In the present case, the dead body of the father of the complainant was found in decomposed condition and thereafter investigation was launched. The applicant and other accused persons were named in the FIR by the complainant on the suspicion that they had committed murder of his father due to a dispute pertaining to a land allotted to his father. It was alleged that the accused persons were undertaking illegal mining of *murum* in the said land and dispute

pertaining to the same led to the incident, causing the death of the father of the complainant.

3. The learned counsel for the applicant points out that the applicant was merely a servant of accused No.1 and 2, who were alleged to be carrying out illegal mining of *murum* in the land belonging to the father of the complainant. It is submitted that the present case is a case of circumstantial evidence and from the material presently on record, there is nothing to connect the applicant with either the incident in question or the deceased. It is submitted that there is no last scene theory or any other circumstance propounded by the investigators till date to connect the applicant with the incident in question.

4. It is further pointed out that the dead body was found at a place near agricultural land belonging to one Hemraj with whom also the deceased was allegedly having a dispute because the land allotted to the deceased originally belonged to the said Hemraj.

5. Considering the aforesaid circumstances, although the learned APP and the learned counsel appearing for the complainant have opposed the present application, but, it appears that a case for grant of conditional bail is made out. There is apprehension expressed by the learned APP and the learned counsel for the complainant that if bail is granted the applicant

would threaten the witnesses, particularly, in the backdrop that complaints have been launched against the relatives of the applicant for having threatened the complainant and other witnesses.

6. In view of the above, the present application is allowed and the applicant is granted bail on the following conditions.

- a) The applicant shall furnish PR bond of Rs.25,000/- and surety of the like amount.
- b) The applicant shall not enter jurisdiction of Mankapur Police Station, Nagpur City, since the complainant resides in the said jurisdiction.
- c) The applicant shall co-operate with the investigation.
- d) The applicant shall attend Police Station Aroli District Nagpur once a week i.e. on Sunday between 10:00 AM to 5:00 PM, till filing of charge-sheet.
- e) The applicant shall not tamper with the evidence and influence the witnesses.

7. Needless to say that violation of any of the aforesaid conditions would lead to cancellation of bail.

8. 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

MP Deshpande