

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

CRIMINAL APPLICATION (BA) NO.699/2019
Mangesh @ Swapnil s/o Shamrao Pendam and anr
..VS..
State of Mah., thr. PSO Samudrapur, District Wardha

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

Court's or Judge's Order

.....
Shri M.V.Rai, Counsel for Applicants.
Shri J.Y.Ghurde, Addl.P.P. for the State.

CORAM : V.M.DESHPANDE, J.
DATED : AUGUST 30, 2019.

1. This is an application under 439 of the Code of Criminal Procedure for grant of bail.
2. Heard learned counsel Shri M.V.Rai for applicants and learned Additional Public Prosecutor Shri J.Y.Ghurde for the State.
3. Applicants are arrested in connection with Crime No.71/2018 registered with Samudrapur Police Station, District Wardha for offences under Sections 302, 201, 120-B read with Section 34 of the Indian Penal Code and under Section 3(2) of Schedule-VII of the Maharashtra Prevention and Eradication of Human Sacrifice and other Inhuman, Evil and Honoria Practises and Black Magic Act, 2013.
4. First Information Report is lodged by Smt.Varsha Naitam, the widow of Wasudeo. According to

.....2/-

the prosecution, Wasudeo is murdered by present applicants and others.

5. As per the report, first informant was having suspicion over residents of village. The First Information Report was lodged against unknown persons and according to the First Information Report, villagers were nursing grudge against Wasudeo, the deceased, since he was practising black magic.

6. Investigation is over. Chargesheet is already filed. Admittedly, the case of the prosecution is not based on any eyewitness account but on the circumstantial evidence.

7. According to learned Additional Public Prosecutor Shri J.Y.Ghurde for the State, circumstance appearing against applicants is recovery of burnt clothes from place which was shown by applicant No.1-Mangesh and recovery of iron rod from place shown by applicant No.2-Akash. He also submitted that at the time of arrest of applicant No.1-Mangesh, it was found that his footwear was having blood stains and the said footwear was sent to Chemical Analyzer and report which is with the Public Prosecutor, though it is not part and parcel of chargesheet, shows that Blood Group of Wasudeo, the deceased, is matching with Blood Group of blood noticed on the said footwear.

8. Insofar as recovery of iron rod from applicant No.2-Akash is concerned, it appears that there is no Chemical Analyzer's Report that there was no blood stain

insofar as blood stain on the footwear is concerned. During Trial, it will be always open for the accused persons to offer explanation.

9. Though it may be incriminating circumstance, Chemical Analyzer's Report is corroborative piece of evidence and, therefore, as on today in absence of any direct evidence against applicants, in my view, when applicants are languishing in jail from 6.2.2018 and co-accused is already released on bail whose case is somewhat similar to applicants, applicants can be released on bail.

10. In this view of the matter, I pass following order:

ORDER

(i) The criminal application is allowed.

(ii) Applicant No.1-Mangesh @ Swapnil s/o Shamrao Pendam and applicant No.2 Akash s/o Shamrao Pendam, in connection with Crime No.71/2018 registered with Samudrapur Police Station, District Wardha for offences under Sections 302, 201, 120-B read with Section 34 of the Indian Penal Code and under Section 3(2) of Schedule-VII of the Maharashtra Prevention and Eradication of Human Sacrifice and other Inhuman, Evil and Honoria Practises and Black Magic Act, 2013, be released on bail on their executing P.R.Bond in the sum of Rs.10,000/- by each of them with one solvent surety of the like amount by each of them.

(iii) Applicants are directed to attend the police station once in 3 month during pendency of the Trial.

(iv) With this, the criminal application stands disposed of accordingly.

JUDGE

!! BRW !!

...../-