

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

Criminal Application (BA) No.170 of 2020
Raju Narayanrao Wakpanjar Vs. State Through Police Station Badnera Dist.
Amravati

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

Court's or Judge's orders

Mr. P.V. Navlani, Advocate for the applicant.
Mr. N.R. Rode, APP for the respondent - State

CORAM : MANISH PITALE, J.

DATED : JUNE 12, 2020

Hearing was conducted through video conferencing and the learned counsel agreed that the audio and visual quality was proper.

2. Heard learned counsel for the applicant. By this application, the applicant is seeking bail in connection with FIR dated 02/07/2019 i.e. date of FIR.

3. The allegation against the applicant, who is husband of the deceased, and other accused persons is that they were responsible for the death of the victim. Initially, on a report given by the applicant himself FIR was registered under Sections 306, 498-A R/w 34 of the Indian Penal Code. This is because it was reported that the victim i.e. wife of the applicant had committed suicide. But, it appears that after the post-mortem report, the prosecution thought it fit to add offence under Section 302 of the

Indian Penal Code against the accused persons for the reason that it was opined in the post-mortem report that death was due to asphyxia caused by throttling.

4. The learned counsel appearing for the applicant highlighted the fact that all the other four accused persons, who happen to be his parents, brother as well as sister-in-law were granted bail by the Sessions Court and this Court. It was submitted that the applicant was also entitled to release on bail on the ground of parity.

5. The learned APP opposed the application highlighting the fact the husband of the deceased i.e. the applicant had major role to play in the manner in which the victim died. It was submitted that the applicant in the first place falsely claimed that the victim had committed suicide. It was further submitted that the statements of the witnesses also indicated the major role played by the applicant in the present incident.

6. The material on record shows that initially an FIR was registered for the offences under Sections 306 and 498-A R/w 34 of the Indian Penal Code. It was only after the post-mortem report was received that offence under Section 302 of the Indian Penal Code was added. The major plank on which the said offence was added, was the opinion given in the post-mortem report regarding throttling of the victim as also dislocation of the atlanto axial joint. A perusal of the statements of witnesses shows that there had been a quarrel amongst the accused persons and the victim on the date of incident, but, further details of the exact

manner in which the incident occurred are not forthcoming. It is a matter to be decided in the course of trial as to whether the victim committed suicide or that she was throttled to death, depending upon the medical and other evidence that may come on record.

7. At present, the material on record shows that the death occurred due to asphyxia caused by throttling and that there was dislocation of atlanto axial joint. The post-mortem report does not show any injuries on the bodies of the victim other than the aforesaid dislocation. Therefore, it appears that the conclusion as to the manner in which the incident took place could be arrived at only after a full dress trial. It is an admitted position that the applicant has been behind bars since 02/07/2019 and that investigation is completed and charge-sheet is already filed. It is also an admitted position that all other accused persons have already been released on bail.

8. Therefore, the applicant has made out a case for grant of bail conditionally.

9. In view of above, the application is allowed in the following terms :

(a) The applicant is directed to be released on bail in connection with Crime No. 547 of 2019, registered at Police Station Badnera Dist. Amravati on furnishing PR bond of Rs.25,000/- (Rs. Twenty Five Thousand) and surety in the like amount.

(b) The applicant shall report to Police Station

Badnera Dist. Amravati on first and fourth Monday of each month during pendency of the trial.

(c) The applicant shall attend each and every date of the proceeding before the Trial Court.

(d) The applicant shall not in any manner tamper with the evidence or influence the prosecution witnesses.

10. Needless to say, violation of any of the aforesaid conditions shall make the applicant liable for cancellation of bail.

11. It is also made clear that the observations made in the present order are limited to the question of grant of bail to the applicant and that the Trial Court shall proceed on merits in the matter, without being influenced by such observations.

12. This order be communicated to the counsel appearing for the parties, either on the email address or on WhatsApp or by such other mode, as is permissible in law.

JUDGE