

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

CRIMINAL APPLICATION (BA) NO. 231 OF 2020

(Ashish s/o Sureshrao Lonkar vs. The State of Maharashtra thr. PSO, PS Pulgaon, Wardha)

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

Court's or Judge's orders.

Shri R.M. Daga, Advocate for the applicant.
Shri S.A. Ashirgade, Additional PP for the non-
applicant – State.

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CORAM : PUSHPA V. GANEDIWALA, J.
NOVEMBER 23, 2020.

Heard Shri Daga, learned counsel for the
applicant and Shri Ashirgade, learned APP for the
non-applicant – State, through video conferencing.

2. The applicant, who was arrested on 13.07.2019 for the offence punishable under Section 302 read with Section 34 of the Indian Penal Code along with Section 4/25 of Arms Act vide Crime No. 439 of 2019 by the Police Station Pulgaon, District – Wardha, has filed this application for grant of bail.

3. The allegations against the present applicant are that he along with co-accused Akshay Mahure committed murder of the deceased Jaikumar Wani by means of a knife. It is stated that the

deceased Jaikumar was having love affair with the sister of co-accused – Akshay Mahure.

4. Shri Daga, learned counsel appearing for the applicant submitted that the present applicant has been arrayed on the basis of suspicion. There is no concrete material against him for the alleged crime. The statement of witness Suraj Bodile, who is a chance witness is doubtful as it was recorded after three days of the incident and the statements of witnesses Rajesh Wakte and his wife Seema Wakte were recorded after two months of the incident, which are also doubtful. It is further submitted that the weapon of offence was also not recovered from the present applicant nor his clothes. The learned counsel further submitted that the witnesses Rajesh Wakte and Seema Wakte were unknown to the accused and, therefore, it was necessary for the prosecution to conduct Test Identification Parade. The learned counsel, therefore, urged for grant of bail to the applicant.

5. Shri Ashirgade, learned APP appearing on behalf of the non-applicant – State filed say and strongly opposed the application for bail considering the serious injuries by means of sword on the person

of the deceased and direct role of the present applicant in the commission of crime.

6. I have considered the submissions made on behalf of both sides.

7. At the outset, the spot of the alleged incident is residential locality. The time of incident is 8.00 to 8.30 PM. It is surprising that except the chance witnesses Suraj Bodile, Rajesh Wakte and Seema Wakte, the prosecution could not find any resident of the locality as eye witness. The delayed recording of statements of chance witnesses also create doubt in the veracity of such witnesses. The applicant is said to be in jail since 13.07.2019 i.e. for more than 16 months. The prosecution could not point out any criminal antecedents against the applicant.

8. At this stage, considering the nature of material against the present applicant for the alleged offence, in the opinion of this Court, the case for grant of bail is made out. Hence, the following order :

(i) Criminal Application is allowed on the applicant Ashish s/o Sureshrao Lonkar executing

Personal Bond of Rs.25,000/- (Rs. Twenty five thousand only) with one surety in the like amount.

(ii) The applicant shall attend Police Station once in a month on every first Thursday of the month.

(iii) The applicant shall not issue threats or tamper with the prosecution witnesses.

8. Needless to mention that the observations made in this order are strictly for deciding the present application for bail.

JUDGE

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