

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

CRIMINAL APPLICATION (APPP) NO. 468 OF 2020
IN
CRIMINAL APPLICATION (BA) NO. 361 OF 2020

(Atul s/o Satish Dhale & Anr. vs. State of Maharashtra thr. PS, Awdhutwadi, District -
Yavatmal)

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

Court's or Judge's orders.

Shri Vivek Awchat, Advocate for the applicants.
Shri P.S. Tembhare, APP for the non-applicant – State.

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CORAM : PUSHPA V. GANEDIWALA, J.
AUGUST 17, 2020.

Heard Shri Awachat, learned counsel for the applicants and Shri Tembhare, learned APP for the non-applicant – State, through video conferencing.

The applicants are arrested in Crime No. 99 of 2020 for the offence punishable under Sections 302, 201, 147, 148, 120-B read with Section 34 of the Indian Penal Code and Sections 4/25 of the Arms Act, registered at Police Station, Awdhutwadi, District – Yavatmal.

It is the case of the prosecution that on 06.02.2020, the younger brother – Rupesh Deshbhratar, of the informant found missing and on the same day, the dead body of the deceased with

bleeding injuries was found in the forest garden at Jam road. The First Information Report came to be lodged against the unknown persons.

During investigation, six accused including the present applicants and two juvenile came to be arrested. After investigation, charge sheet was filed.

Perused the application, affidavit in reply and charge sheet. I have also considered the submissions made on behalf of both sides.

At the outset, the prosecution opposed the bail of the present applicants mainly on the ground that one witness Vinod Khadse has seen the present applicants along with co-accused, burning their blood stained clothes and have confessed before this witness that they have killed the deceased. Furthermore, the other witness Sanjay Kamble state that he had seen the present applicants along with co-accused and the deceased in the birth day party of his son till 9.45 PM. on 05.02.2020. The other witness Pravin Ingle also states that the accused persons and the deceased were at his house for drinking liquor.

The weapon i.e. knife, koyta (sickle) and stones are allegedly recovered at the instance of other co-accused. The prosecution could not point out that any deadly weapon is recovered from the

present applicants. The case is based on circumstantial evidence.

The prosecution also could not point out motive for the murder of the deceased. Furthermore, apart from last seen theory, there is no other circumstance, which could be pointed out against the present applicants by the prosecution.

The applicants are said to be in jail since February 2020. There are no criminal antecedents against them. Both the applicants are 20 years of age.

Considering the age of the applicants and the role attributed to the present applicants and considering the fact that the investigation is completed and charge sheet is filed, no purpose would be served in keeping them in jail.

Furthermore, there is also no guarantee that the trial would commence in near future. In such circumstances, the case for bail is made out. Hence, the following order :

Criminal Application is allowed. The applicants – Atul s/o Satish Dhale and Aniket @ Golu Shankar Kamble, be released on bail on executing Personal bond of Rs. 15,000/- (Rs. Fifteen thousand only) each with one surety each in the like amount.

The applicants shall not enter the vicinity of the area where the witnesses reside.

The applicants shall not pressurize or issue threats to the witnesses.

The applicants shall not tamper with the prosecution evidence.

The applicants to attend concerned police station once in a month i.e. on every first Thursday of the month between 12.00 Noon and 2.00 P.M.

Any observation made in this order shall not prejudice the case of the prosecution.

Criminal Application (BA) No. 361 of 2020 is disposed of accordingly.

In view of the orders passed above, Criminal Application (APPP) No. 468 of 2020 is rendered infructuous and hence disposed of accordingly.

JUDGE

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