

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

CRIMINAL APPLICATION NO. (BA) 481 OF 2020

Umesh s/o Prabhakar Sawalikar

..vs..

State of Maharashtra, thr. P.S.O.

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

Court's or Judge's orders

Shri P.R. Agrawal, Advocate for appellant.
Ms. H.N. Jaipurkar, A.P.P. for respondent-State.

CORAM : VINAY JOSHI, J.
DATED : 18/12/2020

Heard.

2. The applicant-accused is arrested by Amravati Rural Police in Crime No. 49 of 2020 for the offence punishable under Sections 302, 120B, 201 read with Section 34 of the Indian Penal Code. The applicant claim bail on the premise of inadequacy of evidence and Rule of Parity. The State file affidavit-in-reply stating that the applicant is the main accused who has hatched the conspiracy to eliminate deceased Hanumant. It is contended that applicant was having love affair with wife of deceased (accused No. 2) and in pursuant to that they have engaged accused nos. 3 and 4 to eliminate deceased. According to the prosecution, there is evidence in the form of call detail record showing that applicant was in constant touch with the actual assailants.

3. Initially on 15.02.2020, brother of deceased namely Prakash lodged missing report informing that on earlier day Hanumant went to the school, but did not

returned. Dead body of Hanumant was found on 20.02.2020 on which brother of deceased namely Prakash lodged report against unknown person.

4. Co-accused Anuradha Sakharkar who was alleged to be part of conspiracy is released by this Court on bail vide order dated 02.11.2020. Moreover, rest of the two co-accused who allegedly actually caused death of Hanumant were also released on bail by this Court vide order dated 26.11.2020. While releasing them, it has been noted that there is no adequate evidence against them. As per prosecution case, the applicant has hatched conspiracy. There cannot be a direct evidence as regards to factum of conspiracy but there must be circumstances from which reasonable inference about conspiracy can be drawn.

5. The prosecution has tendered copies of call detail record showing that there was constant conversation in between applicant and co-accused namely Rajesh Kawle. It is pointed out that though constant calls were made from the cell number of accused to the cell no. 917498005693. However, till this time material has not been collected to establish that the said cell number was used by Rajesh kawle. Certainly telephonic conversation may be frequently would felt short to detain accused behind bars. The Police have recorded statements of some witnesses who stated about the illicit relations between the applicant and co-accused Anuradha. Be that as it may, but totality of evidence if consider then the same is not sufficient to deprive applicant from the right of bail during pendency of trial. Moreover, all the co-accused including the assailants

were already released on bail. In view of that, applicant can be released on bail by imposing certain conditions, therefore following order is passed :

- (a) Applicant namely Umesh s/o Prabhakar Sawalikar is released on bail on his furnishing P.R. bond of Rs.25,000/- with one or two sureties in the like amount.
 - (b) The applicant shall not tamper with the prosecution evidence or pressurize the prosecution witnesses.
 - (c) The applicant shall provide his residential address and cell number to the concerned Police Station.
 - (d) The applicant shall attend concerned Police Station on every alternate Monday in between 12.00 noon to 2.00 pm till accusation of trial.
6. The Criminal Application stands disposed of accordingly.

JUDGE

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