

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

CRIMINAL APPLICATION (BA) NO. 1037 OF 2020

Wajid Ahmed s/o Irshad Ahmed, Akola

Vs.

State of Maharashtra

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

Shri N.R. Tekade, Advocate for the applicant.
Shri I.J. Damle, A.P.P. for the respondent/State.

CORAM : PUSHPA V. GANEDIWALA, J.

DATED : DECEMBER 04, 2020.

Heard.

2. The applicant is said to be arrested on 05/01/2020 in connection with Crime No. 01/2020 dated 03/01/2020 registered at Police Station Dabki Road, Akola for the offence punishable under Sections 302 and 307 of the Indian Penal Code, 1860.

3. The case of the prosecution, in nutshell, is that in the midnight of 03/01/2020, the patrolling party of the respondent/State found one injured person on the spot of the incident, who was taken to the hospital, where he succumbed to the injuries. That during the course of investigation, the patrolling party had seen the present applicant fleeing away driving his auto rickshaw, which he had taken on rent from one Ashik Khan Ayub Khan. That during further investigation, blood stained clothes of the present applicant were recovered from his house.

4. Shri Tekade, learned counsel for the applicant, submits that the applicant and the deceased Raju were both unknown to each other. He further submits that though, as per prosecution, blood stained clothes of the applicant were sent for Chemical Analyser's Report, but the same is awaited. Lastly, he submits that there is no motive for the applicant to commit the alleged crime, and thus prayed for releasing the applicant on bail.

5. Shri Damle, learned A.P.P., strongly opposed the bail application through the reply affidavit filed on record.

6. I have perused the application, reply affidavit and the chargesheet with the assistance of learned counsel appearing for the parties.

7. At the outset, the whole case appears to be based on circumstantial evidence. The circumstances, which could be pointed out by the prosecution against the present applicant, are that i) at the instance of the present applicant, his clothes were recovered having blood stains, C.A. report of which is still awaited and ii) the present applicant had shown the place of the incident.

8. Furthermore, the prosecution could not pointed out from the chargesheet any motive behind the murder. Perusal of the statements of the witnesses would show that at the relevant time, the present applicant was heavily drunk. The weapon, allegedly used for the offence, could not

be recovered. There is no substantive material to connect the present applicant with the alleged offence.

9. For all the aforestated reasons, so also considering the fact that the investigation is completed and chargesheet is also filed, this Court is of the opinion that with stringent conditions, the present applicant can be released on bail. Hence, the following order :-

ORDER.

- i. The Criminal Application is allowed.
 - ii. The applicant be released on bail on his furnishing PR bond in the sum of Rs.25,000/- (rupees twenty five thousand) with one solvent surety in the like amount.
 - iii. The applicant shall not tamper with the prosecution evidence or issue threats to the witnesses.
 - iv. The applicant to attend the concerned police station on every first Thursday of each month between noon to 2.00 pm.
10. The Criminal Application is disposed of accordingly.
11. The aforesaid observations is only for granting bail to the applicant and it shall not come in the way of the trial Court during trial.

JUDGE