

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

CRIMINAL APPLICATION (BA) NO. 31 OF 2021

(Nikhil Siddheshwar Todsam Vs. State of Maharashtra)

Office Notes, Office Memoranda of Coram, Appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders
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Shri M.N. Ali, Advocate for the applicant.
Shri Amit Chutke, A.P.P. for the non-applicant /State.

CORAM: MRS. SWAPNA JOSHI, J.

DATED : 29th JANUARY, 2021.

Heard Shri M.N. Ali, the learned counsel for the applicant and Shri Amit Chutke, the learned APP for the non-applicant/State.

2. By this application, the applicant is seeking regular bail in Crime No. 544/2019 registered at Police Station Babhulgaon, District Yavatmal for the offence punishable under Sections 302 read with Section 34 of the Indian Penal Code.

3. The prosecution case reveals that the dead body of the deceased was found on 27.11.2019 by the brother of the deceased, and therefore, the offence came to be registered against the unknown persons.

4. Shri Ali, the learned counsel for the applicant vehemently argued that there is absolutely no *iota* of evidence against the applicant. He further contended that as per the prosecution case, the deceased

was having illicit relationship with the wife of the accused No.1, and therefore, the accused No.1 alongwith co-accused committed murder of the deceased. It is submitted that so far as the present applicant is concerned, there is absolutely no evidence against him.

5. Shri Chutke, the learned APP opposed the bail application.

6. On a perusal of the charge-sheet as well as the reply filed by the non-applicant/State, it is noticed that the First Information Report was lodged against the unknown persons. So far as the present applicant is concerned, the only evidence available against him is that the witness-Ajay Morghade had seen the accused persons on a bike and they made enquiry about the whereabouts of the deceased with him and after sometime the dead body of the deceased was found in the field. Thus, apart from that there is no convincing evidence on record against the applicant.

7. Considering the nature of offence and allegations against the applicant, so also the fact that charge-sheet is already filed, in my considered opinion, the applicant can be enlarged on bail by imposing certain conditions. Hence, the following order.

ORDER

- i. The Criminal Application is **allowed**.

- ii. The Applicant – Nikhil Siddheshwar Todsam, be released on bail in Crime No. 544/2019 registered at Police Station Babhulgaon, District Yavatmal for the offence punishable under Sections 302 read with Section 34 of the Indian Penal Code, on his furnishing P.R. Bond in the sum of Rs. 25,000/- with one or two solvent sureties in the like amount.
- iii. The Applicant shall neither tamper with the evidence so far collected by the prosecution nor pressurize the prosecution witnesses in any manner.
- iv. The Applicant shall attend the concerned police station on every Thursday of the month in between 11.00 a.m. to 2.00 p.m.
- v. The Applicant shall not indulge in similar type of offence in future. If it is noticed that he is involved in such type of offence, the prosecution will be at liberty to move for cancellation of bail.
- vi. The Applicant shall keep himself away from the limits of area where the informant and other witnesses are residing.

- vii.** The Applicant shall not change the place of residence without prior intimation to the concerned police station.
 - viii.** The Applicant shall attend the dates of hearing regularly in the trial court.
 - ix.** His two consecutive absence without reasonable cause will entail the prosecution to move for cancellation of bail.
- 8.** Criminal Application stands **disposed** of accordingly.

(MRS. SWAPNA JOSHI, J.)