

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

CRIMINAL APPLICATION (BA) NO. 142/2021
(Mahesh Budharam Mendhe vs. State of Maharashtra : Th. PSO, PS
Gondia (Rural) Dist. Gondia)

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

Court's or Judge's order

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Mr. H. P. Lingayat, Advocate for the applicant
Ms. Nivedita Mehta, APP for respondent-State

CORAM : MRS.SWAPNA JOSHI, J.

DATED : 8th March, 2021

1. The applicant has filed the present Application under Section 439 of the Cr.P.C. seeking regular bail, for offence punishable u/s. 302 of the Indian Penal Code, registered at Police Station Gondia (Rural), Dist. Gondia, in respect of Crime No.32/2020.

2. I have heard learned counsel for the respective parties. Perused the case papers.

3. The prosecution case in brief is that the applicant and the deceased are the real brothers *inter se*. It is alleged that on 29.1.2020, the complainant i.e. the third brother of the applicant and his wife Anusuya, returned home from work. At that time, deceased-Ganesh asked Anusuya to give him a glass of water and on that count, there was an altercation between them and Ganesh assaulted Anusuya. At the relevant time, the applicant tried to intervene. However the quarrel took place between the applicant and deceased-Ganesh. It is the further case of the prosecution that

the applicant strangled Ganesh which ultimately resulted into his death.

4. Learned Advocate for the applicant vociferously contended that there was no intention whatsoever on the part of the applicant to cause the death of his brother, in as much as the incident had taken place in a spur of moment. He further submitted that at the most, the case may fall within the purview of Section 304 Part II of the IPC.

5. Learned APP opposed the Application.

6. After hearing both sides and on a perusal of the case-papers and the reply filed by the prosecution and considering the manner in which the incident had taken place, so also the facts that the offence may fall within the purview of Sec. 304 part II of IPC, which is a lesser offence than Section 302 of the IPC and the charge-sheet in the matter has been filed, I am of the opinion that the applicant can be released on bail by imposing certain terms and conditions. Hence the order :-

ORDER:

The applicant-Mahesh Budhram Mendhe, be released on bail for offence punishable u/s. 302 of the Indian Penal Code registered at Police Station Gondia (Rural) Dist. Gondia, in respect of Crime No.32/2020 on his executing a PR bond in the sum of Rs. 30,000/- (rupees thirty thousand) with one or two solvent sureties in the like amount, on the following conditions :-

(i) He shall attend the concerned Police Station, on every 1st and 3rd Saturday of each month, between 11.00 and 2.00 pm, till the trial commences.

(ii) He shall provide his residential address and cellphone number to the concerned Investigating Officer and shall not change the same without prior intimation to the Investigating Officer.

(iii) He shall not tamper with the prosecution witnesses in any manner.

(iv) He shall keep himself away from the limits of area where the complainant and other witnesses are residing.

(v) Two consecutive absence without reasonable cause will entail the prosecution to move for cancellation of bail.

(vi) Any observations made in this order are only for granting bail to the applicant and it shall not come in the way of the trial Court, during trial.

Criminal Application stands disposed of.

JUDGE

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