

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

CRIMINAL APPLICATION (BA) 192 OF 2021

(Ishwar Bhaskar Wakode..vs.. State, thr PSO, PS, Khamgaon City, Dist. Buldana)

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

Court's or Judge's orders.

Mr. Suyash Agrawal, counsel for applicant.
Mrs. K.R. Deshpande, APP for applicant /State.

CORAM: ROHIT B. DEO, J.
DATE:30.08.2021.

Heard.

2. The applicant is implicated, alongwith his parents and Mrs. "R", who according to the prosecution is the second wife, in Crime 485/2019, registered with Police Station, Khamgaon City, Dist. Buldana, for offence punishable under section 307 read with section 34 of the Indian Penal Code ("IPC"), on the basis of statement recorded of legally wedded wife Mrs. "S" which statement is treated as First Information Report.

3. The gist of the statement recorded at the General Hospital, Khamgaon is that the applicant, his parents and Mrs. "R" came to the house of the

complainant between 9.30 and 10.00 a.m. on 15.9.2019, demanded that the complainant agree to divorce, and when the complainant refused to oblige, attempted to kill her by forcibly administering poison.

4. I have perused the material in the chargesheet with the assistance of the learned counsel Mr. Suyash Agrawal, who is appearing on behalf of the applicant and the learned APP Mrs. K.R. Deshpande.

5. In my considered view, the applicant has made out a case for bail.

6. The version of the complainant is prima facie discrepant. The first statement recorded on 15.9.2019 makes no reference to the presence of the mother or the attempt made by the mother to protect the complainant. Such role is attributed in the subsequent statement recorded belatedly on 6.10.2019. However, in the subsequent statement dated 6.10.2019, the allegation is it is the co-accused who

administered poison. In the subsequent statement, there is no allegation that the applicant participated in the alleged administration of poison. The statement of the daughter does not throw sufficient light on the incident. The medical evidence appears to be blurred.

7. The prosecution apprehends that the applicant may be in a position to influence the witnesses, particularly, the minor daughter, who is residing with the complainant. It is further pointed out by the learned APP that there are two earlier offences registered against the applicant. One offence is registered in the year 2017 against the applicant and his mother under section 324 of IPC and the other is registered in the year 2018, again under section 324 IPC. The apprehension of the prosecution can be allayed by imposing stringent conditions.

8. Considering the material on record, and the fact that the applicant is already released on temporary bail in view of the Covid protocol, and it is not the case

of the prosecution that the liberty is misused, the applicant is entitled to bail.

9. This application is allowed subject to the following conditions:

(i) The applicant be released on bail in connection with Crime 485/2019, registered with Police Station, Khamgaon City, Dist. Buldana, for offence punishable under section 307 read with section 34 of the Indian Penal Code, on executing PR bond of Rs. 16,000/- (Rupees Sixteen Thousand) with one solvent surety of the like amount.

(ii) The applicant shall not enter the territorial limits of District Buldana till the material witnesses are examined in the trial, save and except, on the dates of hearing. Any breach of this condition may *ipso facto* entail cancellation of bail, if an appropriate motion is moved by the prosecution or the

complainant.

(iii) While on bail, the applicant shall not indulge in any criminal activity. Breach of this condition shall ipso facto entail in cancellation of bail, if an application is moved by the prosecution or any interested person;

(iv) The applicant shall not, directly or indirectly, make any attempt to influence the witnesses or otherwise tamper with the evidence.

(v) The applicant shall not leave the country without the permission of the trial Court.

Judge

Belkhede