

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

**CRIMINAL APPLICATION (BA) NO.274 OF 2021**

Satish s/o Deepak Nagose  
..vs..  
State of Maharashtra, thr. P.S.O.

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

Shri Vivek Awchat, Advocate for Applicant.  
Mrs. N.P. Mehta, A.P.P. for Non-applicant/State.

**CORAM : VINAY JOSHI, J.**  
**DATED : 26/04/2021**

Hearing was conducted through Video  
Conferencing.

2. “Bail is a Rule and jail is a exception”. How far, this principle would apply is a question of fact. Section 439(1) of the Code of Criminal Procedure, confers special powers on the High Court or the Sessions Court to grant bail in non-bailable offences. Certainly, this Court enjoying wide powers, while exercising its judicial discretion in considering the question of grant or refusal of bail. The sole accused (applicant) is charged for committing homicidal death of his elder brother. The nature is that, there has been quarrel in between two brothers at the instance of changing roof tin sheets which was followed by struggle. In that event, the applicant picked up a Nylon rope and strangled deceased till he became motionless.

3. No doubt, the offence is of serious nature which attracts severe punishment. However, besides gravity, the Court must give regard to the background facts and attending circumstances. Some of the broad parameters for considering entitlement for bail are, the circumstances in which the offence is committed, the status of the accused, likelihood of the accused fleeing from justice, or repeating the crime and so on. There cannot be inexorable formula in the matter of granting bail.

4. The prosecution case itself suggests that as of a sudden incident occurred on momentary feelings. The material collected suggests that two brothers quarreled on flimsy ground of changing roof tin sheets. As a part of quarrel, the struggle reached to such extent that the applicant sat on the chest of deceased, picked up a nearby lying nylon rope and strangled the later. Admittedly, the applicant had not carried any weapon nor the material *prima facie*, suggest premeditated act. The applicant is young boy aged 22 years, having no antecedents. There is no likelihood that he would flee from the justice. The nature of offence no where suggests that the applicant may repeat similar offence. The trial will take its own time for disposal. Already investigation is complete. Having regard to these facts, release of accused on bail would be the wise course, hence the following order :

- (a) The Applicant/accused Satish s/o Deepak Nagose in Crime No.447 of 2020 registered with Yavatmal Rural Police Station, District Yavatmal for the offence punishable under Section 302 of the Indian Penal code, is released on bail on his furnishing P.R. bond in the sum of Rs.25,000/- with one or two sureties in the like amount.
- (b) The Applicant/accused shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case, as also shall not tamper with the evidence.
- (c) The Applicant/accused shall provide his residential address to concerned Police Station and shall not change his place of residence without prior intimation.

**JUDGE**

*Trupti*