

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

CRIMINAL APPLICATION (BA) NO.341/2020
{Akash s/o Dilip Meshram vs. State of Maharashtra: Through PSO, PS
Gondia (City) 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. R.M.Daga, Advocate for the applicant
Mr. Amit Chutke, APP for respondent-State

CORAM : MRS.SWAPNA JOSHI, J.

DATED : 25th February, 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 and u/ss. 3 and 25 of the Arms Act, registered at Police Station Gondia (city), Dist. Gondia, in respect of Crime No.170/2019.

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

3. The prosecution case in brief is that on 17.04.2019 between 7.00 and 7.30 pm, when deceased-Rahul had gone for purchasing Ice-cream for his child, the applicant committed his murder, in front of the house of one Pramila Tembhekar. Pramila informed about the said incident to the father of the deceased who, in turn, informed his wife and she lodged the report at the Police Station.

4. Learned Advocate for the applicant contended that although the name of Pramila Tembhekar reflects in the FIR which is lodged on the day of the incident itself, her statement is recorded seven days after the incident; so also the statement

of other alleged eye witness-Nitin is recorded after long spell of seventeen days of the incident. Similarly, the statement of witness-Rohit, who has seen the accused with the weapon, is recorded as late as eight days after the incident. The learned Advocate submitted that the applicant is incarcerated since 17.04.2019.

5. Learned APP opposed the Application, contending that that the applicant is a habitual offender having criminal antecedents and the country-made pistol is recovered at his instance.

6. On the point of criminal antecedents, the learned Advocate for the applicant submitted that the offences registered against the applicant are mostly under the Maharashtra Prohibition Act and, according to him, that cannot be the ground for denying bail.

7. After hearing both sides and on a perusal of the case-papers and the reply filed by the prosecution and considering the delay in recording the statements of the alleged eye witnesses and also considering that the applicant is languishing behind bars since 17.04.2019 and the charge-sheet now 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-Akash Dilip Meshram, be released on bail for offence punishable u/s.302 of the Indian Penal Code and u/ss. 3 and 25 of the Arms Act, registered at Police Station Gondia (city), Dist. Gondia, in respect of Crime No.170/2019, on his executing a PR bond in the sum of Rs. 40,000/- (rupees forty

thousand) with one or two solvent sureties in the like amount, on the following conditions :-

- (i) The applicant shall keep himself away from the jurisdiction of Gondia (city) Police Station, except for attending the dates of trial, till culmination of trial.
- (ii) He shall attend the concerned Police Station, wherever he resides, on every 1st and 3rd Saturday of each month, between 11.00 and 2.00 pm, till the trial commences.
- (iii) 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.
- (iv) He shall not tamper with the prosecution witnesses in any manner.
- (v) He shall keep himself away from the limits of area where the complainant and other witnesses are residing.
- (vi) Two consecutive absence without reasonable cause will entail the prosecution to move for cancellation of bail.
- (vii) 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

sahare