

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.
CRIMINAL APPLICATION (BA) NO. 514/2021

Narendra S/o Shivaji Pudake & anr.

-VERSUS-

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

Shri A. M. Quazi, Advocate for applicants.
Shri M. J. Khan, APP for State.

CORAM : VINAY JOSHI, J.
DATE : 19.06.2021.

Hearing was conducted through Video
Conferencing.

2. Both applicants were arrested in Crime No. 328/202 for the offence punishable under Sections 302, 201, 120(b) read with Section 34 of the Indian Penal Code. The applicants have claimed bail on the ground of innocence, false implication, inadequacy of evidence etc. The State resisted bail by filing reply-affidavit. It is contended that the applicants have taken away the deceased in pre-planned manner to rob his ornaments and accordingly took him to the secluded place and committed his murder by way of strangulation. Considering the nature of accusation,

2

application is prayed to be rejected.

3. It is the prosecution case that deceased Dayaram went missing on 26.11.2020, on which his body was found on 01.12.2020. Relatives of deceased have identified dead body on the basis of clothes and some articles worn by deceased. It is the prosecution case that both applicants along with co-accused Yogesh went to the place of deceased on 26.11.2020 and took him by Maroti Omni Van. There are statements of witnesses who have last seen applicants and co-accused in the company of deceased.

4. The Police paper contains four statements of relatives of deceased who have stated that on 26.11.2020 in the morning, they say both applicants along with co-accused Yogesh arrived at the house of deceased. All of them have decided to have a party on which after some time one Maroti Omni Van was brought by which all four left. This is the material regarding last seen of applicants in the company of deceased.

3

5. Besides that, the prosecution is heavily banking upon seizure of ornaments at the instance of applicant Narendra. For that purpose, discloser statement of applicant Narendra dated 04.12.2020 has been shown. It reveals that at the instance of applicant Narendra, from his house gold chain, two gold finger rings were came to be seized. Learned counsel for the applicants would submit that the relatives of applicants have found finger rings on the dead body and therefore, it is impossible. Moreover, it is submitted that if the deceased was abducted to rob him, then assailant would not have left the finger rings on the dead body. Suffice it to say that as per inquest Panchanama, the rings found on the dead body were mentioned as *Bajaru Angathya*, meaning thereby, they may not be of value. However, particularly, gold ornaments in the proximity of the occurrence were seized from applicant Narendra. Seizure of these gold ornaments at the instance of applicant Narendra prima facie affirms his involvement in a crime. However, as regards applicant Sanjay is concerned, besides last seen theory, there is no other material against applicant Sanjay. In view of that applicant Narendra is not

4

entitled for bail. However, Sanjay can be released on bail by imposing certain conditions. Hence, following order:-

(I) Application stands partly allowed.

(II) Bail application of applicant Narendra stands rejected.

(III) Applicant Sanjay is released on bail on his furnishing P.R. Bond of Rs. 25,000/- with one or two sureties in the like amount.

(III) The applicant 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.

JUDGE

Gohane.