

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

CRIMINAL APPLICATION (BA) 575 OF 2021

(Shri Sukhdev @ Wasudev Duryodhan Sasane..vs.. State, thr PSO, Ansing, District Washim)

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

Court's or Judge's orders.

Mr. Parijat Pande, counsel for applicant.
Mr. N.S. Rao, APP for non-applicant /State.

CORAM: ROHIT B. DEO, J.
DATE:13.10.2021.

The applicant is seeking bail in connection with Crime 287/2020, registered with Police Station, Ansing, District Washim, for offences punishable under sections 302, 201 read with section 34 of Indian Penal Code.

2. The crime is registered on the basis of report dated 12.10.2020, lodged by Mrs. Rukmabai Thombre. The gist of the report is that her son Mr. Baban, who was disabled, was addicted to liquor. The applicant was a frequent visitor to Mr. Baban's residence. Mrs. Rukmabai was residing with her sister Mrs. Sondarabai since last 10 days since she suffered a fracture to the hand. At 6.00 p.m. on 11.10.2020, when Mrs. Rukmabai was going to Mr. Jamvantrao Ugle's shop to purchase matchbox, she saw

her son Mr. Baban and the applicant proceeding to the liquor vend. At 6.00 p.m. on 12.10.2020, Mrs. Rukmabai learnt that Mr. Baban was lying on the platform of Mr. Jamvantrao Ugle's shop. She went to the spot and found Mr. Baban dead. Mr. Baban had serious head injuries. Mrs. Rukmabai learnt from the persons who had gathered, that there was a pool of blood on the cement road, she went there and saw the bloodstained stone, pool of blood, Mr. Baban's torch and bloodstained scarf. She lodged the report expressing suspicion that her son Mr. Baban was murdered by the applicant and Antarushi Ugle.

3. During the course of investigation, pursuant to the statement recorded under section 27 of the Indian Evidence Act, the clothes worn by the applicant at the relevant time are recovered, which are bloodstained. The report of the Chemical Analyzer is awaited. Statements of several witnesses are recorded, who have either seen the assault or who have seen the applicant and the co-accused dragging the body with intent of destruction of evidence.

Witness Mr. Ramchandra Ugle, whose statement is recorded promptly, and who is also referred to in the report, vouches for the fact that between 10.00 p.m. to 10.30 p.m. on 11.10.2020, Mr. Baban and Antrushi Ugle had come to his house to consume liquor. Mr. Ramchandra states that both had already consumed liquor elsewhere. While Mr. Baban consumed country liquor, Antarushi Ugle did not consume liquor and he paid the bill. The witness states that after Mr. Baban and Antarushi left, within 5 to 10 minutes, the applicant Sukhdeo and Mr. Vasanta Jadhao came to his residence and drank liquor. This statement is relied by the learned counsel for the applicant Mr. Parijat Pande to submit that prima facie, the deceased was alive till 10.00 to 10.30 p.m.

4. Witness Mr. Pandurang Ugle states that between 10.30 p.m. to 11.00 p.m., while he was proceeding to the agricultural field of Mr. Rangrao, alongwith Mr. Rangrao, he saw Antarushi Ugle and the applicant Sukhdeo carrying a body. While Antarushi was holding the hands, Sukhdeo was holding the legs. The witness states that he and

Mr. Rangrao concealed themselves behind the house of the Sarpanch Ramrao and saw Sukhdeo and Antarushi dumping the body on the platform of Jamvantrao Ugle's shop. The learned counsel Mr. Parijat Pande would emphasize that the statement of Mr. Pandurang Ugle is recorded belatedly on 26.10.2020. The explanation given by witness Mr. Pandurang Ugle for the belated disclosure is that Antarushi and Sukhdeo have propensity to indulge in crimes and due to threat perception, the witness did not disclose the incident immediately. Similar is the statement, and the explanation for delay, given by witness Mr. Rangrao who was accompanying witness Mr. Pandurang.

5. Witness Mr. Pandit Ugle, Mr. Gokul Kalambe and Mr. Sitaram Ugle have also claimed to have witnessed the accused present at the scene of occurrence and their version is that Mr. Baban was lying on the ground with bleeding injuries. The version of the witnesses is that when they attempted to approach the accused, co-accused Antarushi threatened them with the stone which he was holding and declared that the witness too shall be killed.

6. It is trite law that at the stage of considering entitlement to bail, microscopic examination of the material on record is not expected. It is true that there is some delay in recording the statement. Some explanation is given, which may or may not hold good during the trial. However, in view of the cumulative circumstances, coupled with the recovery of the bloodstained clothes, for which at least at this stage, there is no explanation forthcoming from the accused, it cannot be said that there is no formidable prima facie case.

7. The post mortem report reveals that the assault is brutal. The version of the witnesses is that the accused instilled fear in the mind of the villagers. The complainant is a senior citizen and widow. The possibility that the witnesses may be compromised, is a real possibility.

8. I am not inclined to exercise discretion in favour of the applicant.

9. However, if there is no significant progress in the

trial in the next eight months, the applicant shall be at liberty to approach the learned Sessions Judge for bail provided this order is brought to the notice of the learned trial Judge, by the applicant, within the next seven days, and further provided that the delay is not attributable to the accused. The application is dismissed.

Judge

Belkhede