

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

CRIMINAL APPLICATION (BA) NO. 627 /2021

(Ajinkya @ Sunny s/o Santosh Choudhary **vs.** The State of Maharashtra:
Th: PSO, PS Hinganghat Dist. Wardha)

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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. C.R.Thakur, Advocate for the applicant
Ms. T. Udeshi, APP for respondent -State

CORAM : MRS.SWAPNA JOSHI, J.

DATED : 29th July, 2021

Hearing was conducted through video conferencing and the learned Advocates agreed that the audio and video quality was proper.

1. The applicant has filed the present Application under Section 439 of the Cr.P.C. seeking regular bail, for offence punishable u/ss. 363, 302, 201 of the Indian Penal Code, registered at Police Station Hinganghat, Dist. Wardha in respect of Crime No. 342/2020.

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

3. The prosecution case in brief is that on 12.06.2020 a report was lodged by one Suryakant Bharne in respect of missing of his son Chirag, aged about 15 years. An offence punishable under section 363 of the Indian Penal Code was lodged against some unknown persons on 13.06.2020. On the same day the vehicle used by deceased was found near Vivekanand Park compound. The police took charge of

the said motorocycle. On 14.06.2020 the dead body was found flowing in the river-bed of Wana river of Boregaon village. The dead body was identified by the complainant which was in a highly decomposed condition. The CCTV footage reveals that the applicant accompanied the deceased on the motorcycle of the deceased before 5.00 pm on 12.06.2020 whereas at about 5.00 pm, the applicant was seen coming back alone without deceased, by walk.

4. Learned Advocate for the applicant vehemently contended that apart from last seen together in the company of the deceased while proceedings towards the river, there is absolutely no prima facie evidence against the applicant to connect him with the guilt. It is submitted that the post-mortem report is silent on the aspect of exact cause of death whereas the final opinion indicates that the cause of death cannot be made out due to highly decomposition of the body. It is submitted that in these circumstances, the applicant be released on bail.

5. Learned APP vociferously opposed the Application, contending that the applicant was seen lastly in the company of the deceased and as such no relief be granted in favour of the applicant.

6. After hearing both sides and on a perusal of the case-papers and the reply filed by the prosecution, it is noticed that so far as the cause of death of the deceased is concerned, the PM report does not throw any light on the said aspect. So also the final opinion indicates that the cause of death could not be made out due to decomposition of

the body. So far as the prima facie against the applicant available on record is only that he was seen lastly in the company of the deceased and they both proceeded towards Wana river. There is no recovery of weapon from the applicant as such. Furthermore, it is reported that the charge-sheet in the matter has already been filed.

7. Considering the facts and circumstances of the case, 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 -Ajinkya @ Sunny s/o Santosh Choudhary, be released on bail for offence punishable u/ss 363, 302, 201 of the Indian Penal Code, in respect of Crime No. 342/2020 registered at Hinganghat Dist. Wardha, on his executing a PR bond in the sum of Rs. 30,000/- (rupees thirty thousand) with one or two solvent sureties in the like amount, on the following conditions :-

- (i) He shall attend the concerned Police Station as and when required by the police.
- (ii) He shall not tamper with the prosecution witnesses in any manner.
- (iii) He shall attend the trial on each and every date. Two consecutive absence without reasonable cause will entail the prosecution to move for cancellation of bail.
- (vi) 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.

29.07.21.BA.627.21

4

JUDGE

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