

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

Criminal Application (BA) No. 749 of 2021

[Dhyaneshwar Shravan Wakode ..vs.. The State of Maharashtra through P.S.O. Vasantnagar, Yavatmal]

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

Court's or Judge's orders

Mr. Mir Nagman Ali, Advocate for the applicant
Mr. N. R. Rode, APP for the State/non-applicant

CORAM : ROHIT B. DEO, J.

DATED : 27-08-2021

The applicant is seeking bail in connection with Crime 88/2019 registered with Police Station, Vasantnagar, Yavatmal for the offences punishable under Sections 302 and 201 of the Indian Penal Code.

2. Prosecution case is that the applicant Dhyaneshwar was residing with his family comprising wife, daughter Namrata and father Shravan. The younger brother of the applicant, who is the informant, was residing separately.

3. It is the prosecution case that Shravan and Dhyaneshwar were constantly at loggerheads and the issue was Dhyaneshwar's demand that the agricultural property be partitioned.

4. The material in the charge-sheet reveals that the dead body of Shravan is discovered from the house with strangulation marks and the postmortem confirms the death to be homicidal.

5. The version of the informant, who as noted is the younger brother, is that the daughter of the applicant Namrata came to his residence at 6.30 p.m. on 12-4-2019 and disclosed that her grandfather is being assaulted by her father and mother. The informant went to the residence of the applicant, the wife of the applicant who is the co-accused was present and she disclaimed knowledge of the whereabouts not only of her husband but also of the deceased. The informant went to the room of his father Shravan and found him dead with ligature marks on the neck.

6. I have perused the material in the charge-sheet. It is not only the informant but independent witness who vouches for the fact that the daughter of the applicant Namrata sought their intervention and conveyed that her parents are assaulting her grandfather. The learned

counsel for the applicant pointed out that Namrata's statement is not recorded, as it appears from the omission of her name in the list of witnesses. I therefore, asked learned Additional Public Prosecutor Mr. Rode to verify and he informs that although the statement of Namrata is recorded, since she denied that she went to the house of the informant, she is not cited as witness.

7. It is not necessary, for the purpose of bail, to make any further observation since it would always be open for the trial Court to take appropriate steps, if the evidence of some witness is found necessary for just disposal of the case. Insofar as entitlement to bail is concerned, I am of the considered view that there is no scope to exercise discretion. The fact that the father of the applicant was apparently killed in the house, and in a sense in the custody of the applicant, and that there was a motive, is sufficient material to suggest a strong *prima facie* case.

8. Considering that the witnesses are close relatives and the daughter of the applicant Namrata could possibly

be a witness, the possibility that the applicant may be in a position to influence the witnesses is a real possibility.

9. Considering the heinous nature of the offence, the material on record and other relevant circumstances, I am not inclined to grant bail.

10. The application is dismissed.

JUDGE

wasnik