

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

CRIMINAL APPLICATION (BA) 707 OF 2021

(Roshan s/o. Lakhani Dhurve..vs..State, thr PSO, PSI Hudkeshwar, Nagpur)

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

Court's or Judge's orders.

Mr. M. Hussain, counsel for applicant.
Mr. N.S.Rao, APP for applicant /State.

CORAM: ROHIT B. DEO, J.
DATE:27.08.2021.

Heard.

2. The applicant is seeking bail in connection with Crime 314/2020 registered with Police Station Hudkeshwar, Nagpur, for offences punishable under Sections 143, 147, 149, 302 of the Indian Penal Code and Section 135 of the Maharashtra Police Act.

3. The investigation is complete and the charge-sheet is filed.

4. Perusal of the charge-sheet indicates that while three witnesses are cited as eyewitnesses to the incident in which the deceased Chetan is allegedly done to death by as many as five persons, each of the

three witnesses has stated that the assailants were wearing masks. While one witness Amit candidly stated that he would not be in a position to identify the assailants, the other two Shubham and Hitesh stated that they would identify the assailants from their physic and eyes.

5. This Court has already granted bail to co-accused Ashwin vide order dated 20-4-2021 rendered in Criminal Application (BA) 270/2021 (Coram : V.M. Deshpande,J.) and to co-accused Nilesh Gedam vide order dated 5.7.2021 in Criminal Application (BA) 515/2021.

6. Perusal of the chargesheet reveals that the applicant is similarly situated to the co-accused, who are granted bail.

7. The principle of parity apart, independent scrutiny of the material would reveal that no role as such is attributed to the applicant in the First

Information Report. It is true that the report is not lodged by an eye witness. However, the brother of the deceased, who lodged the report states that he made inquiries from the persons who witnessed the incident and is lodging the report on the basis of information received. Even according to the prosecution, the knife blows, which caused death, are not inflicted by the applicant. It is pointed out by the learned APP that the applicant is already facing prosecution under section 324 of the Indian Penal Code. However, considering the material in the chargesheet, I am not inclined to reject bail only on the ground of pendency of an earlier prosecution. Stringent conditions can be imposed to ensure that the applicant does not misuse the liberty.

8. The application is allowed subject to the following conditions:

- (i) The applicant be released on bail in connection with Crime 314/2020 registered with Police Station Hudkeshwar, Nagpur under Sections 143, 147, 149, 302 of the Indian Penal Code and Section 135 of the Maharashtra Police Act, on executing PR bond

of Rs. 16,000/- (Rupees Sixteen Thousand) with one solvent surety of the like amount;

(ii) While on bail, the applicant shall not indulge in any criminal activity. Breach of this condition shall ipso facto entail in cancellation of bail, if an application is moved by the prosecution or any interested person;

(iii) The applicant shall report at Hudkeshwar Police Station on every Monday of the week from 10.30 a.m. to 1.30 p.m. and shall obtain acknowledgment of attendance in a diary specially maintained for that purpose. Breach of this condition shall ipso facto entail in cancellation of bail, if an appropriate motion is moved;

(v) The applicant shall not, directly or indirectly, make any attempt to influence the witnesses or otherwise tamper with the evidence;

(vi) The applicant shall not leave the country without the permission of the trial Court.

Judge