

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

CRIMINAL APPLICATION (BA) NO. 797/2021

Vishal Gayaprasad Daharwal

...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 C.R.Thakur Advocate with Shri L.B.Khergade, Advocate for applicant
Shri S.M.Ukey, Addl. PP for Respondent/State

CORAM : AVINASH G. GHAROTE, J.

DATE : 20/09/2021

Heard Mr. Thakur., learned counsel for the applicant, who seeks release of the applicant on bail for the offence punishable u/s 302 r/w 201 and 34 of the IPC, in Crime No. 378/19.

2] On the earlier occasion, in Criminal Application No. 230/2020, when the court had expressed its disinclination to enlarge the applicant on bail, the application was withdrawn. On the second occasion, in Criminal Application No. 477/2021, a request was made to withdraw the application with liberty to approach this court after receipt of CA Report, which was claimed to be decisive aspect of the matter, which was accordingly permitted by order dated 21.6.2021.

3] Mr. Thakur, learned counsel for the applicant by inviting my attention to the order dated 29.01.2021, passed in Criminal Application No. 1098/20, in the case of co-accused Sunil Ishwarilal Daharval, submits that since the said co-accused has been enlarged on bail, the case of the applicant being weaker than him, the applicant was also entitled to be released on bail. He further submits that there is no TI conducted. He further submits that the applicant is in jail since 30.05.2019 and though chargesheet has been filed, there is no progress in the matter and therefore, the applicant be enlarged on bail.

4] Learned APP opposes the same, by pointing out that there is an extra judicial confession on record at page 84, thereby the applicant had admitted the guilt. That apart, the statement of Waiter and Bar Manager at page 92 and 93 also supports the last seen theory, and so also, he submits that the CA report dated 21.10.2020 in relation to Exh.7 and 8 which were seized from the person of the applicant indicate blood stains which have not been explained and therefore, the application be rejected.

5] A perusal of the order dated 29.01.2021, would indicate that CA report dated 21.10.2020, was not brought to the notice of the learned Court at the time of passing of the impugned order. The PM report indicates as many as 56

injuries upon the deceased. Though the statement of the witness at page 94 namely Manoj Damodhar Shingare indicates that he was not able to identify the persons involved, considering the entire conspectus, I do not see that this is a fit case to enlarge the applicant on bail. The application, therefore, is rejected.

JUDGE

rvjalit