

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

CRIMINAL APPLICATION (BA) NO.846 OF 2021

(Yogesh s/o Tikaram Titirmare Vs. State of Maharashtra thr. PSO PS Kardha, Tah. &
Dist. Bhandara)

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

Court's or Judge's orders.

Mr. J. K. Matale, Advocate for Applicant.
Mr. N. S. Rao, APP for Non-Applicant/State.

CORAM: ROHIT B. DEO, J.

DATE: 14th SEPTEMBER, 2021.

The applicant is arraigned as accused 1 in Crime 328/2020 for offences punishable under sections 302, 201, 120(B) read with section 34 of the Indian Penal Code.

2. The prosecution case is that the applicant and the two co-accused Narendra and Sanjay took Dayaram to a secluded place and strangled him to death and the motive is robbery.

3. Dayaram went missing on 26.11.2020 and the body was found on 01.12.2020. Narendra and Sanjay preferred Criminal Application (BA) 514/2021 which is decided by this Court (Coram: Vinay Joshi, J.) vide order dated 19.06.2021. This Court granted bail to Sanjay observing that other than the last seen theory, there is no other material connecting Sanjay to the homicidal death.

The bail application of Narendra is dismissed since the ornaments which Dayaram wore, were recovered from him.

4. A faint attempt was made to suggest that the applicant is entitled to bail on the principle of parity. Notably, the case of the applicant is not on the same pedestal as Sanjay who is granted bail. The two mobile phones belonging to the deceased are recovered at the behest of the applicant, pursuant to section 27 of the Indian Evidence Act memorandum. The two mobiles were hidden, wrapped in plastic bag, in a pipe.

5. While there cannot a parity in rejection of bail, the case of the applicant is similar to Narendra whose bail application is rejected. Be that as it may, having examined the entitlement of bail independently and *de hors* the rejection of Narendra's bail by the coordinate bench, I am satisfied that in view of the heinous nature of the accusation and the material on record, no discretion can be exercised.

6. The application is dismissed.

JUDGE