

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

CRIMINAL APPLICATION (BA) NO.860 OF 2021

(Shaikh Shahrukh s/o Shaikh Kaleem Vs. The State of Maharashtra thr. PSO PS
Kapilnagar, Nagpur)

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

Court's or Judge's orders.

Mr. Shaikh Sabahat Ullah, Advocate for Applicant.
Mrs. K. R. Deshpande, APP for Non-Applicant/State.

CORAM: ROHIT B. DEO, J.

DATE: 20th SEPTEMBER, 2021.

The applicant is arraigned as accused 4 in Crime 445/2020 registered with the Kapilnagar Police Station, Nagpur for offences punishable under sections 302, 364, 201, 203 read with section 34 of the Indian Penal Code and section 4/25, 4/27 of the Arms Act and section 135 of the Maharashtra Police Act.

2. In brief, the prosecution case is that accused 1 admitted to have murdered Dipak @ Golya Rajput, a known history-sheeter, in telephonic call to Police Constable Rahul Nagdive.

3. The Police Constable, along with the staff of the Kapilnagar Police Station made inquiries with A1 who took them to the scene of the crime where the body of Dipak @ Golya Rajput was found with multiple injuries inflicted

by more than one weapon. The report is lodged by Police Constable Rahul Nagdive, who states that A1 confessed to have killed the deceased with the assistance of accused 2 and the motive was disclosed as harassment by the deceased to the sister of A1.

4. The names of A3 Sameer Pathan and A4 Shaikh Shahrukh, who is the applicant herein surfaced during the investigation and according to the prosecution the incriminating material is the statements of two witnesses which is to the effect that the deceased left along with the accused in red colour car driven by the applicant, which car was later seized and blood stains found.

5. This Court (Coram: Vinay Joshi, J.) was pleased to grant bail to A3 Sameer Pathan vide order dated 02.07.2021 in Criminal Application (BA) 262/2021. The learned counsel for the applicant rightly invokes the principle of parity since there is no difference in the incriminating material against Sameer Pathan and the applicant herein.

6. The applicant has no criminal antecedents. The accused who is granted bail by this Court did have one previous offence registered. While releasing A3 Sameer Pathan stringent conditions are imposed, and on the principle of parity, the applicant 2 deserves to be released subject to similar conditions.

7. This application is allowed subject to the following conditions:

- (a) The applicant/accused Shaikh Shahrukh s/o Shikh Kaleem be released on bail in connection with Crime 445/2020 registered with the Kapilnagar Police Station, Nagpur for the offences punishable under sections 302, 364, 201, 203 read with section 34 of the Indian Penal Code and section 4/25, 4/27 of the Arms Act and section 135 of the Maharashtra Police Act on his furnishing personal bond in the sum of Rs.15,000/- with one surety in the like amount.
- (b) The applicant/accused shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case, as also shall not tamper with the evidence.
- (c) The applicant/accused shall not enter into the territorial limits of the Nagpur Municipal Corporation, till the conclusion of trial.
- (d) The applicant/accused shall provide his residential address and cell number to the concerned Investigating Officer where he intend to reside, within one week from his release.

- (e) The above observations are restricted to the aspect of deciding this bail application, which has no impact on the merits of the trial.

JUDGE

NSN