

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

Criminal Application (BA) No. 872 of 2021

[Nitin S/o Nathulal Solanki ..vs.. State of Maharashtra through P.S.O. 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. O. K. Masurke, Advocate for the applicant
Mrs. K. R. Deshpande, APP for the State/non-applicant

CORAM : ROHIT B. DEO, J.

DATED : 06-09-2021

Applicant Nitin Solanki and co-accused Raju Rathod are implicated in Crime 30/2021 registered with Police Station, Hudkeshwar, Nagpur for offence punishable under Sections 302 and 504 read with Section 34 of the Indian Penal Code. While Raju Rathod is released on bail, the learned Sessions Judge rejected the bail application preferred by Nitin observing that the roles are different.

2. The deceased is Harilal Goswami and the only eye witness to the incident is Smt. Sarita, the daughter of the deceased.

3. According to Smt. Sarita, her father Harilal tried to force himself upon her and demanded sexual favour.

This was seen by accused Nitin, who is her brother-in-law, and Raju Rathod. The prosecution case is that at that time, the applicant and Raju Rathod manhandled/slapped Harilal and later between 10.00 p.m. to 11.00 p.m. on 17-1-2021, applicant Nitin returned along with Raju Rathod and while Raju Rathod inflicted fists and kick blows, applicant Nitin assaulted Harilal with stick causing multiple injuries, which led to death.

4. It is not in dispute that the applicant has no criminal antecedents. The investigation is complete and the charge-sheet is filed. Considering the version of the only eye witness Sarita, a case is made out for grant of bail. Assuming that the prosecution is in a position to prove that the applicant is the author of assault which led to death, it would be arguable that the offence may not fall under Section 302 of the Indian Penal Code. In any event, it is for the trial Court to take an appropriate call after the evidence is adduced. At this stage, considering the nature of the accusations and the fact that the applicant has no adverse record, I am inclined to grant

bail subject to stringent conditions. The application is allowed.

(a) The applicant be released on bail on furnishing PR bond of ₹ 15,000/- (Rupees Fifteen Thousand) with solvent surety of like amount.

(b) The applicant shall attend Hudkeshwar Police Station, Nagpur on every Sunday between 10.30 a.m. to 12.30 p.m. and shall obtain an appropriate acknowledgment from the police station, in a diary separately maintained for that purpose.

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

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

(e) Any violation of these conditions may *ipso facto* entail cancellation of bail, if appropriate motion is moved.

JUDGE