

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

CRIMINAL APPLICATION [BA] NO. 924 OF 2021.

Ankush Dilip Ade.

-VERSUS-

State of Maharashtra through P.S. Ghatanji, District Yavatmal.

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders

Shri A.S. Manohar, Advocate for the Applicant.
Shri A.M. Kadukar, A.P.P. for the Non-applicant.

CORAM : VINAY JOSHI, J.

DATE : SEPTEMBER 21, 2021.

Heard.

2. This is second bail application in relation to Crime No.437/2021 registered with the non-applicant Police Station Ghatanji, for offence punishable under Section 302 read with Section 34 of the Indian Penal Code. After filing of the charge sheet, this Court has earlier rejected bail application on merit vide order dated 12.06.2020.

3. In order to reconsider the prayer, it is canvassed that there is material change in the circumstances. It is submitted that after rejection of

2

first bail application, the trial Court has framed charge and recorded evidence of 6 witnesses. The learned Counsel appearing for the applicant took me through the evidence of sole eye witnesses [child witness], and portion of evidence of some other witnesses. Particularly, he took me through the cross examination of child witness, and submitted that the prosecution case cannot stand on said material. Moreover, he endeavored to impress that seizure of iron rod at the instance of the applicant is doubtful.

4. Earlier on the basis of material collected by the police, bail was rejected on merits. True, thereafter evidence of some witnesses has been recorded. The learned Counsel for the applicant in true sense want this Court to appreciate the worth of the evidence of witnesses, while dealing with bail application. Infact the trial is in progress, and it is for the trial Court to consider the said submission made by the applicant. The said exercise, when the trial is in the midst, is unwarranted at this stage. However, it reveals that the trial Court has examined total 6 witnesses upto 08.04.2021, and thereafter there is absolutely no

3

progress. It is brought to the notice of this Court that the prosecution has filed an application (Exh.60) dated 16.03.2021 for recall of one of the prosecution witness in terms of Section 311 of the Code of Criminal Procedure. The said application is yet not decided, and now the matter is fixed by the trial Court for hearing on that application on 29.09.2021.

5. The learned A.P.P. upon instructions would submit that the prosecution is to examine only the investigating officer in the case.

6. Having regard to these facts, following order is passed :

- (i) Criminal Application is rejected.
- (ii) The Trial Judge is directed to decide the Session Trial No. 187/2019, expeditiously and not later than the period of two months from the scheduled date i.e. 29.09.2021.
- (iii) If the trial is not concluded within the above stipulated period, in that event, the applicant is at liberty to approach this Court again.

Rgd.

JUDGE