

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

CRIMINAL APPLICATION (BA) NO.1041 OF 2021

(Sushant @ Kanha s/o Munnalal Yadav Vs. State of Maharashtra thr. PSO PS Gondia
(City), Tah. & Dist. Gondia)

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

Court's or Judge's orders.

Mr. R. M. Daga, Advocate for Applicant.
Mr. N. S. Rao, APP for Non-Applicant/State.

CORAM: ROHIT B. DEO, J.
DATE: 4th DECEMBER, 2021.

The applicant is one of the six accused who are arraigned as accused in Crime 292/2021 registered with Police Station Gondia (City), District Gondia for offences punishable under Sections 395, 341, 294, 323 and 506 of the Indian Penal Code.

2. The prosecution case is that while the informant was transporting sand in a tractor, the accused accosted him and relieved him of sand worth Rs.15,000/- (Rupees Fifteen Thousand).

3. It is common ground that the alleged involvement of the applicant surfaced in the disclosure made by the apprehended accused Manish Verma. Other than this material, there does not appear to be any material on record which if translated into evidence will connect the applicant with the crime. Notably, as many as

four witnesses including the informant participated in the test identification parade and none has identified the applicant. The statement of the brother of the applicant which is assumed by the learned Sessions Judge to be a confession, is not a confession at all. This is a *prima facie* observation which shall not prejudice the prosecution during the course of the trial.

4. The learned APP Mr. Rao points out that the applicant has adverse antecedents. In rebuttal, Mr. Daga submits that the applicant faced prosecution under Section 302 and 324 of IPC in the year 2011 and 2016 respectively and is acquitted in both the trials. The other cases pertain to the alleged offences under the Maharashtra Prevention of Gambling Act and the Maharashtra Police Act.

5. In any event, considering the fragile nature of the material on record in the crime at hand, I am not inclined to reject the bail only on the ground that the applicant has adverse antecedents.

6. The application is allowed.

7. The applicant shall be released on bail on executing personal bond of Rs.15,000/- (Rupees Sixteen Thousand) with a solvent surety of like amount.

8. The applicant shall not be involved in any criminal activity while on bail. Even a singular breach of this

condition shall entail cancellation of bail.

9. The applicant shall not make any attempt to tamper with the evidence or to influence witnesses, directly or indirectly.

10. The applicant shall not leave the country without the permission of the jurisdictional court.

JUDGE

NSN