

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

CRIMINAL APPLICATION (BA) NO.1054 OF 2021

(Manoj Kumar Jaitram Marai @ Manoj Kumar Jaitram Mandai @ Karan Vs. State of
Maharashtra thr. PSO PS Yashodhara Nagar, Nagpur)

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

Court's or Judge's orders.

Mr. Y. Y. Humne, Advocate for Applicant.
Mr. N. R. Rode, APP for Non-Applicant/State.

CORAM: ROHIT B. DEO, J.

DATE: 15th NOVEMBER, 2021.

The applicant is seeking bail in connection with Crime 837/2020 registered with the Police Station Yashodhara Nagar, Nagpur for offences punishable under Sections 302, 334, 323, 504, 392, 397, 201 read with Section 34 of the Indian Penal Code and Section 37(1)(3), 135 of the Maharashtra Police Act and Section 4, 25, 27 of the Indian Arms Act.

2. In brief the prosecution case is that at 09:45 p.m. or thereabout on 17.11.2020 three unknown persons robbed the victim of his mobile and in the process inflicted a stab wound which caused the victim's death.

3. The applicant is arrested on 26.11.2020. According to the prosecution, the incriminating circumstances against the applicant are two fold. Pursuant to statement recorded under Section 27 of the Indian Evidence Act, the mobile of the deceased is allegedly recovered from the applicant. The other incriminating

circumstances is that one of the two alleged eye witnesses Nurullah identified the applicant as one of the three accused, in the test identification parade conducted on 04.12.2020.

4. In so far as the test identification parade is concerned, statements of Nurullah and Shukrullah, which are broadly similar if not identical, came to be recorded seven days after the incident. While Shukrullah has not identified the applicant, Nurullah identified the applicant as one of the three persons who came on the motor-cycle and committed the crime. However, there is no supplementary statement recorded clarifying the role played by the applicant in as much as even according to the prosecution one of the three accused inflicted the stab blow. In so far as the recovery of the mobile is concerned, concededly there is no material on record to identify the said mobile as the mobile of the deceased. In this view of the matter, the recovery *per se* may not be significant. This of course is a *prima facie* observation.

5. The learned APP Mr. Rode points out that on the same day there was another robbery in the evening hours in connection with which the applicant is implicated in Crime 490/2020. In response, Mr. Humne submits that the applicant is granted bail in that crime, by the Magistrate.

6. Considering the nature of the material in the present crime, I am inclined to grant bail notwithstanding

that the applicant is facing another prosecution. However, stringent conditions shall have to be imposed.

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

- [i] The applicant shall be released on bail on executing personal bond of Rs.25,000/- (Rupees Twenty Five Thousand only) with a solvent surety of like amount.
- [ii] The applicant shall not indulge in any criminal activity while on bail. Even a singular violation of this condition shall entail cancellation of bail.
- [iii] The applicant shall report at the Yashodhara Nagar Police Station, Nagpur every Monday between 10:00 a.m. to 02:00 p.m. and shall obtain acknowledgment of attendance in a diary separately maintained. Breach of this condition shall also result in cancellation of bail.
- [iv] The applicant shall not make any attempt to tamper with the evidence or to influence witnesses, directly or indirectly.
- [v] The applicant shall not leave the country without the permission of the jurisdictional Court.

JUDGE