

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

CRIMINAL APPLICATION (BA) NO.1292/2020
(Sohail S.K. Jamil vs. State of Maharashtra: Through PSO PS Wardha,
Tq. Wardha)

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

Court's or Judge's order

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Mr. A.S.Dhore, Advocate for the applicant
Ms. Nivedita Mehta, APP for respondent-State

CORAM : MRS.SWAPNA JOSHI, J.

DATED : 19th January, 2021

The applicant has filed the present Application under Section 439 read with Section 437 of the Cr.P.C., seeking bail for the offence punishable u/s.302 of the Indian Penal Code, registered at Police Station, Wardha, in respect of Crime No.188/2020.

I have heard the learned counsel for respective parties. Perused the case-papers and the reply filed by the respondent-State. At the outset, it is mentioned that the applicant came to be arrested on 02.05.2020 and since then he is in jail.

The prosecution case in brief is that the complaint was lodged by the brother of the deceased, namely, Bhau Santram Sirmore, stating that on 25.04.2020 he received a phone call from his brother-Ravi Santram (deceased) that on 24.4.2020 at about 11.30 am, the applicant Sohail called his brother-Ravi near the pan kiosk and at that time an altercation took place between them and

Sohail threatened Ravi with dire consequences. As such, Ravi was very much frightened. It is further alleged that on 29.04.2020 at about 3.00 pm, the complainant received information that the dead body of his brother in a decomposed condition was lying at the Railway Station. However, due to prevailing pandemic situation, the complainant could not see the dead body of his brother. The dead body came to be disposed of by the Railway Police. On 2nd May, 2020 the applicant was arrested.

The learned Advocate for the applicant vehemently argued that even if the allegations in the charge-sheet are admitted in its entirety, there is no direct evidence to connect the applicant with the crime. He further submitted that the complaint was lodged only on the basis of assumption and presumption and merely on the basis of suspicion. The statement of one Sadhana Kamble indicates that the applicant went to her house during night time and at that time he was in an injured condition. Further statement of Vasudeo Katewar shows that the applicant visited his house during the night of 25th April, 2020 at 10.00 pm, and took away the knife which was kept on the dressing table. Thereafter the applicant never returned the knife to Vasudeo. It is submitted that in the PM report, the cause of death is mentioned as either homicidal or accidental; so also the PM report indicates the burn injuries on the dead body and since the body was almost decomposed, there were no injuries indicating use of knife. As such, the learned Advocate for the applicant prays for releasing the applicant on bail.

The learned APP vehemently opposed the Application and pointed out that the offence is of a serious nature. She submitted that in the said offence stone, knife, cement blocks were used.

After hearing both sides and on a perusal of the case-papers and the reply filed by the prosecution, it is amply clear that *prima facie*, there is no direct evidence against the applicant and the complaint was lodged on the basis of suspicion. The PM notes indicate that multiple injuries were found on the dead body. However the cause of death is mentioned as “Nuerogenic shock with hypovolemic shock due to excessive loss of blood due to injuries on neck region and head, which may be due to accidental homicidal in nature”. The statements of the witnesses such as, complainant and Sadhana Kamble do not throw much light on the aspect of involvement of the applicant.

Considering the facts and circumstances of the matter, I am of the opinion that the applicant can be released on bail by imposing stringent conditions . Hence the order :-

ORDER:

The applicant – Sohail S.K. Jamal, be released on bail for offence punishable u/s 302 of the Indian Penal Code registered at Police Station, Wardha, in respect of Crime No.188/2020, on his executing a PR bond in the sum of Rs. 30,000/- (rupees thirty thousand) with one or two solvent sureties in the like amount, on the following stringent conditions :-

- (i) He shall attend the concerned Police Station, on every 1st and 3rd Saturday of the month, between 11.00 and 2.00 pm, till

culmination of the trial.

(ii) He shall provide his residential address and cellphone number to the concerned Investigating Officer and he shall not change the same without prior intimation to the Investigating Officer.

(iii) He shall not tamper with the prosecution witnesses in any manner.

(iv) He shall keep himself away from the limits of area where the complainant and other witnesses are residing.

(v) Two consecutive absence without reasonable cause will entail the prosecution to move for cancellation of bail.

(vi) Any observations made in this order are only for granting bail to the applicant and it shall not come in the way of the trial Court during trial.

Criminal Application stands disposed of.

JUDGE

sahare