

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

CRIMINAL APPLICATION (BA) NO.1155 OF 2021

(Sanjay Sevakdas Khonde Vs. The State of Maharashtra thr. PSO PS Deoli, Dist.
Wardha)

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

Court's or Judge's orders.

Mr. S. R. Dube, Advocate for Applicant.
Mr. N. R. Rode, APP for Non-Applicant/State.

CORAM: ROHIT B. DEO, J.

DATE: 26th NOVEMBER, 2021.

The applicant – Sanjay Khonde is arraigned as accused 3 in Crime 237/2021 registered at Police Station Deoli, District Wardha for offences punishable under Sections 143, 147, 148, 149, 452 and 302 read with Section 201 of the Indian Penal Code.

2. The deceased is Deepak Arun Ramteke, who is the son of accused 1 Arun Ramteke.

3. It would not be necessary to make a detailed reference, considering the nature of accusations against the present applicant, to the dispute and bad blood between deceased and his father Arun. Broadly, the dispute apparently stems from an illicit relationship which accused 1 Arun allegedly has with a woman 'S'.

4. The case of the prosecution is that the deceased and his wife Sunita were at their residence on the fateful

day, which is 22.03.2021 and the informant, who is the mother of the deceased was in the porch. Accused 1 Arun accompanied by four accused allegedly came at the residence. While A-1 Arun first snatched the mobile phone of the informant and held her, the applicant remained in the porch. Co-accused Akash Khonde and the other two accused allegedly went inside the house and brutally assaulted Deepak. The assault with knife on the throat and stomach etc. is attributed to accused Akash Khonde.

5. The submission of the learned counsel Mr. Dube is that considering that the prosecution case appears to be that the applicant did not enter the house and remained at the porch, that he has no criminal antecedents, that he is not a flight risk, and that the aspect of he being part of an unlawful assembly and having common object of murdering Deepak, would be a matter of trial, further incarceration would only be a pre-trial punishment.

6. I am inclined to agree.

7. It is true that the prosecution has invoked Section 149 of IPC. Pertinently the prosecution has neither invoked Section 34 nor 120-B of IPC. In so far as the allegation that the applicant was a member of the unlawful assembly, while it can be assumed at this stage, that he was present at the scene and was waiting in the porch, it would be hazardous arrive at even a *prima facie* finding, that the object of the unlawful assembly was necessarily murder and

that he was a member of the unlawful assembly having the said object. This would have been determined by the trial Court on the basis of the evidence adduced.

8. Considering that the applicant has no criminal antecedents, it is not even the case of the prosecution that he is likely to flee away from the course of justice, and the nature of accusations, I am inclined to grant bail.

9. The application is allowed subject to the following conditions.

- (i) The applicant be released on bail on executing the personal bond of Rs.16,000/- (Rupees Sixteen Thousand) with solvent surety of the like amount.
- (ii) The applicant shall not indulge in any criminal activity while on bail.
- (iii) The applicant shall not make any attempt to influence the witnesses, directly or indirectly.
- (iv) The applicant shall attend each date of hearing scrupulously.
- (v) The applicant shall not leave the country without the permission of the trial Court.

JUDGE