

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

CRIMINAL APPLICATION (BA) NO.1117 OF 2021

(Rohit s/o Naresh Mude Vs. The State of Maharashtra thr. PSO PS New Kamptee,
Dist. Nagpur)

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

Court's or Judge's orders.

Mr. C. R. Thakur, Advocate for Applicant.
Mr. M. K. Pathan, APP for Non-Applicant/State.

CORAM: ROHIT B. DEO, J.

DATE: 23rd NOVEMBER, 2021.

The prosecution case is that co-accused Suresh Kadu assaulted his brother Ravi on 14.07.2021. The cause of assault, even according to the prosecution, is the misconduct of the deceased who was habituated to liquor. It appears to be the case of the prosecution that co-accused Suresh telephonically called the present applicant, who is a maternal cousin, and both of them carried the deceased on the applicant's motor-cycle, tied a big stone to the body and threw the deceased in a well situated at the agricultural field of Mr. Khot.

2. The body was discovered in a decomposed state on 23.07.2021. Initially inquiry under Section 174 of the Criminal Procedure Code, 1973 (Code) was initiated and on the basis of the material collected during the inquiry, Crime 324/2021 was registered at Police Station New Kamptee, District Nagpur for offence punishable under

Section 302 read with Section 34 of the Indian Penal Code.

3. The investigation is complete and the charge-sheet is filed.

4. I am inclined to grant bail for reasons which are briefly stated hereinafter.

5. Even according to the prosecution the applicant came in the picture after the incident of co-accused Suresh assaulting the deceased with stick. The cause of death which is referred to in the autopsy report is head injury. The possibility that the applicant, even if the prosecution case is accepted in entirety, arrived after the death, and at the highest, helped the co-accused to destroy the evidence, cannot be ruled out. It would be for the trial Court, obviously, to take the final call on the basis of investigation.

6. The incriminating material which is pressed in service is the seizure of the motor-cycle from the applicant. *Per se*, the seizure of the motor-cycle can hardly be linked with the alleged murder. The others incriminating material is record of an alleged telephone call made by co-accused Suresh to the applicant between 08:05 p.m. and 09:24 p.m. As noted *supra*, the applicant may as well have been summoned after the incident of assault and therefore, the calls, if proved, will be relevant only to that extent. This is a *prima facie* view and need not detain the trial Court, during trial.

7. Considering the material on record, I am inclined to grant bail, particularly since the applicant is relatively young and has no criminal antecedents.

8. The application is allowed.

9. The applicant shall be released on bail on executing personal bond of Rs.16,000/- (Rupees Sixteen Thousand) with a solvent surety of like amount.

10. The applicant shall not indulge in any criminal activity while on bail.

11. The applicant shall not make any attempt to influence the witnesses, directly or indirectly.

12. The applicant shall not leave the country without the permission of the jurisdictional Court.

JUDGE

NSN