

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

CRIMINAL APPLICATION (BA) NO.1160/2021

Vimleshkumar Siddhagopal Shukla

..VS..

State of Mah., thr.PSO PS Khaparkheda, Nagpur

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

Court's or Judge's Order

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Shri P.S.Jaiswal, Counsel for the Applicant.
Mrs.M.H.Deshmukh, Addl.P.P. for the State.

CORAM : V.M.DESHPANDE, J.
DATED : DECEMBER 07, 2021.

1. This is an application for grant of regular bail.
- 2.. Heard learned counsel Shri P.S.Jaiswal for the applicant and learned Additional Public Prosecutor Mrs.M.H.Deshmukh for the State. Also, perused entire chargesheet and order passed by learned Additional Sessions Judge, Nagpur who rejected application filed by the present applicant for grant of bail before approaching to this Court.
3. In this prosecution case, entire investigation is over and chargesheet is already filed.
4. The applicant is arrested on 18.4.2021 in connection with Crime No.104/2021 registered with Khaparkheda Police Station (Rural), Nagpur for offences punishable under Sections 302 and 201 read with Section 34 of the Indian Penal Code.
5. Deceased is one Saddam Hasnuuddin Khan. He

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went missing from 7.4.2021 and, therefore, his mother Nasrin lodged a missing report with Khaparkheda Police Station on 9.4.2021. Dead body of her son Saddam was found in a naked condition in a well situated in an agricultural field of one Abhay Ingle. First Information Report is registered in view of the report lodged by Police Sub Inspector Pritam Nimgade. During investigation, the Investigating Officer arrested three persons; (1) Himanshu; (2) Vimlesh, the present applicant, and (3) Kamlesh, the brother of the present applicant. Himanshu is son of Kamlesh.

6. After completion of entire investigation and after filing of challan, Kamlesh filed an application for grant of bail. His bail application was considered favourably by learned Additional Sessions Judge, Nagpur vide order dated 26.8.2021. The said order is placed along with the present application.

Perusal of the said order shows that learned Judge below observed that the prosecution case is that the deceased was invited for dinner by Kamlesh at his house at Dahegaon. They both consumed liquor and after having the dinner, the deceased and Kamlesh slept in a hall on ground floor. Whereas, co-accused Himanshu and the present applicant slept in a room situated on first floor. According to the prosecution case, they heard a noise and, therefore, they came down. That time, they saw that Kamlesh was holding his head and the deceased who was in a nude condition was

doing unnatural sex with him. There, it appears that accused No.1-Himanshu assaulted on the deceased.

7. The applicant also filed an application for grant of bail. However, his bail application was rejected by learned Additional Sessions, Nagpur on ground that he tried to destroy evidence.

8. Even, from the order rejecting the bail application of the applicant, it is clear that role of the assault was not attributed to the present applicant. Even, learned Prosecutor could not point out from entire chargesheet that the present applicant assaulted on the deceased. The role attributed to him is that he tried to destroy the body of the deceased. Thus, he tried to do away with evidence.

9. In this view of the matter, looking to facts that investigation is over; chargesheet is already filed; there is no eyewitness to the incident, and looking to the role attributed to the present applicant, I am of view that the applicant who is in jail and there is no past criminal record against him, his application can be considered favourably. Resultantly, I pass following order:

ORDER

(1) The criminal application is allowed.

(2) Applicant-Vimleshkumar Siddhagopal Shukla be released on bail, on his executing a P.R.Bond in the sum of Rs.5000/- with one solvent surety of the like amount, in connection

with Crime No.104/2021 registered with Khaparkheda Police Station (Rural), Nagpur for offences punishable under Sections 302 and 201 read with Section 34 of the Indian Penal Code.

(3) The applicant is directed to attend the police station twice a month i.e. on 3rd Saturday and 4th Friday of every month between 2:00 p.m. and 5:00 p.m., till the trial is over.

(4) The applicant shall not cause tampering of the prosecution case.

(5) The observations made in this order are only for deciding this application and trial Court should not get influenced by it at the time of trial.

With this, the criminal application stands disposed of accordingly.

JUDGE

!! BRW !! Digitally
signed by
BHUSHAN
RANA
WANKHEDE RANA
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