

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

CRIMINAL APPLICATION (BA) 1298 OF 2021

(Arjun Mohan Ghatayade..vs.. State, thr PSO, PS Khamgaon City, Dist. Buldana)

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

Court's or Judge's orders.

Mr. S.V. Sirpurkar, counsel for applicant.
Mrs. K.R. Deshpande, APP for non-applicant/State.

CORAM: ROHIT B. DEO, J.
DATE:21.12.2021.

This is a successive application for bail in connection with Crime 232/2019, registered with Police Station Khamgaon City, District Buldana, for offence punishable under section 302 read with section 34 of the Indian Penal Code.

2. The earlier Bail Application (BA) 363/2020 was rejected by me vide order dated 29.10.2020. After noting the basic facts, I observed thus:

“7. In so far as the present applicant Arjun @ Sonu is concerned, there are overwhelming circumstances on record, which if proved, may form such complete chain as would exclude the possibility of innocence. The incriminating circumstances are not limited to the last scene theory and recovery. While the seizure of bloodstained clothes and the recovery of the knife are indeed incriminating circumstances, as many as three

close relatives have stated that the applicant Arjun @ Sonu confessed to have murdered Vicky due to previous enmity.

8. *Witness Rohit Pacherwal is the cousin of the applicant. Witness Sunita Pacherwal is the cousin aunt of the applicant and witness Neha is a close relative. The said three witnesses have stated in unison that the applicant Arjun @ Sonu came to their house in the night intervening 2.5.2019 and 3.5.2019 between 1.30 a.m. to 2.00 a.m. He was accompanied by co-accused Rahul. The applicant and Rahul explained the visit at the odd hours stating that they attended a marriage at Risod and since road to Khamgaon was in a bad condition, they decided to take a halt. The witnesses have further stated that the applicant and Rahul had dinner and slept. The next morning, the witnesses noticed that the clothes of the applicant were bloodstained. When confronted, the applicant confessed that he and Rahul had murdered Vicky at Khamgaon and then fled to escape the law. The applicant justified the murder by declaring that had he not murdered Vicky, Vicky would have murdered him some day or the other.*

9. *The bloodstained clothes of the applicant have been recovered from the residence of the witnesses where the applicant and Rahul took shelter”.*

3. Despite the observation that the likelihood of delayed trial cannot be a circumstance in favour of the accused in view of the heinous nature of offence which may attract death penalty or life imprisonment, it is submitted by

the learned counsel Mr. S.V. Sirpurkar that a direction be issued for expeditious trial.

4. The learned APP Mrs. K.R. Deshpande points out that the charge is likely to be framed on 29.12.2021.

5. While the applicant is indeed entitled to an early trial, depending upon the pendency of the other matters in which the under trial is in jail, I see no reason to assume that the learned Judge shall not proceed with the trial expeditiously.

6. In this view of the matter, I am not presently inclined to consider the request for a direction to the learned Judge to expeditiously consider the trial.

7. However, if there is no significant progress in the trial, in the next four months, the applicant may revive the prayer for bail.

Judge

Belkhede