

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

Criminal Application (BA) No.91/2022

Tushar Ghajbhiye V State of Maharashtra thr PSO PS Kapil Nagar, Nagpur

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

Court's or Judge's Orders

Shri A.S. Band, Advocate for applicant.
Shri V. Thakare, APP for State.

CORAM : ANIL S. KILOR, J.
DATE : 07-06-2022

Heard.

2. This is an application for grant of bail under Section 439 of the Code of Criminal Procedure in Crime No.445/2020 registered with Police Station Kapil Nagar, Nagpur for offences punishable under Sections 302, 364, 201, 203 read with section 34 of the Indian Penal Code and Sections 4, 25, 4, 27 of the Arms Act and 135 of the Bombay Police Act.

3. It is the case of the prosecution that the report was lodged by Police Constable Rahul. It is stated therein that on 18-10-2020 in the morning from 10.00 hours to 21.00 hours he was on duty and after that he came back his house. In the night around 22.19 hours, the complainant received call on mobile phone from the present applicant who told him that he has murdered one Golu Rajput and he wants to surrender before him Thereupon, the Police approached the spot of incident, where

they found body of Golu lying in a pool of blood and there were multiple injuries on the body of the deceased caused due to assault by dangerous weapons. When asked reason about the killing of Golu, the applicant stated that Golu was harassing his sister and family members.

4. The learned Counsel for the applicant submits that the offence was registered against the four accused persons including the applicant who is accused no.1 and out of four accused persons except the applicant, other accused persons are released on bail. It is submitted that the case of co-accused Marotkar and applicant is the same and therefore the applicant is entitled for bail on parity.

5. The learned Counsel for the applicant has drawn my attention to a statement of witness, wherein it has come that the deceased was seen with other accused persons and not with the applicant. He, therefore, submits that this evidence is sufficient to show that the applicant is not involved in the alleged offence.

6. It is further submitted that the applicant is in jail for more than one year and as the chargesheet has already been filed, the custody of the applicant is not necessary for further investigation.

7. On the other hand, the learned APP strongly opposed the application and submits that the Investigating Officer has

collected the ample material to show the involvement of the applicant in the alleged offence. It is submitted that the knife is recovered from the applicant. It is further pointed out that after making a phone call to the complainant, the applicant took the Police to the spot where the body of the deceased was lying. It is, therefore, submitted that the involvement of the applicant is apparent. It is further submitted that as the crime is very serious and it is against the society, this Court may not grant bail to the applicant.

8. I have perused the chargesheet and also the contents of the FIR. The record shows that the applicant himself called the complainant and informed him that he has murdered the deceased namely Golu Rajput and he wants to surrender. Further, he has taken the police to the spot where the body of deceased was laying in a pool of blood due to multiple injuries. Thus, looking to the evidence collected by the prosecution, prima facie, I am of the opinion that there is sufficient material to show the involvement of the applicant in the alleged offence. In the circumstances, there is every possibility that the applicant may pressurize the prosecution witnesses or tamper with the prosecution evidence.

9. Though the other accused persons having been released on bail, the case of the present applicant cannot be

equated with the case of the other accused persons and, therefore, the applicant cannot claim parity in this case.

10. In that view of the matter, I am of the opinion that no case is made out by the applicant for grant of bail. Accordingly, it is rejected.

(Anil S. Kilor, J.)