

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

CRIMINAL APPLICATION (BA) NO.90 OF 2022

(DINESH GAUTAM KHANDARE...VS.. STATE OF MAH. THR. PSO PS RAHIMPUR,
DIST.AMRAVATI)

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

Court's or Judge's orders

Shri P.W.Mirza, Advocate for Applicant.
Ms Shamsi Haider, A.P.P. for Non-applicant/State.

CORAM : ANIL S. KILOR, J.
DATED : JUNE 17, 2022.

1. Heard.
2. This is an application under Section 439 of the Code of Criminal Procedure for grant of regular bail in connection with Crime No.127 of 2021, registered with Police Station, Rahimpur, District: Amravati for the offences punishable under Sections 302, 452, 323, 504 of the Indian Penal Code.
3. The learned counsel for the applicant submits that further custody of the applicant is no more required as the charge-sheet has been filed after completion of the investigation. He submits that in the first report lodged by the wife of the deceased there was no allegation about hitting the head of the deceased on cement road. He further submits that column No.17 of the Post Mortem Report does not disclose any injury on the person of the deceased. It is submitted that the deceased died after four days. Accordingly, he prays for grant of bail.

4. The learned A.P.P. opposed the application and submits that the offence is very serious and there are eyewitnesses who support the case of the prosecution and accordingly, she prays for rejection of this application.

5. I have perused the charge-sheet and the F.I.R.

6. The N.C. report which was lodged by the wife of the deceased on the date of the incident, there is no mention about hitting of head of deceased on cement road by the applicant.

7. The deceased was admitted in the hospital and he was alive for four days. After the death of the deceased present report came to be lodged on 05/06/2021.

8. In this case, after considering the allegations made in the F.I.R. *prima facie*, it appears that the incidence took place in sudden provocation and it was not premeditated. In the circumstances, as the investigation is completed and the charge-sheet has already been filed, custody of the applicant is not necessary.

9. As far as possibility of the applicant to pressurize the prosecution witness, as he is resident of the same village, the same can be taken care of by putting stringent conditions. Accordingly I pass the following order:

- i) The application is allowed.
- ii) It is directed that the applicant shall be released on bail in connection with Crime No.127 of 2021, registered with Police Station, Rahimpur, District: Amravati for the offences punishable under Sections 302, 452, 323, 504 of the Indian Penal Code on furnishing P.R. Bond in the sum of Rupees Twenty Five Thousand with one solvent surety in the like amount.
- iii) The applicant shall not pressurize the prosecution witnesses or tamper with the prosecution evidence.
- iv) The applicant shall not enter the vicinity of village Kumbhargaoon till conclusion of the trial.
- v) The applicant shall attend the trial before the Sessions Court regularly on every date unless exemption is granted by the Sessions Court.

The Criminal Application is **disposed of** accordingly.

JUDGE