

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

CRIMINAL APPLICATION (BA) NO. 172 OF 2022

Gajanan @ Shivneri Havas Pawar..Versus...State of Maharashtra

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

Court's or Judge's orders

Mr. P.B.Patil, Advocate for the applicant
Mr. A.R.Chutke, APP for respondent/State

CORAM : AVINASH G. GHAROTE, J.

DATE : 22/03/2022

1] Heard Mr. Patil, learned counsel for the applicant
and Mr. Chutke, learned APP for respondent/State.

2] The applicant is arraigned for the offence under
Sections 302, 201 r/w 34 of the IPC and Sections 3/25 and
4/25 of the Arms Act in Crime No. 303/2021. The incident is
dated 3.6.2021 at 15.30 hrs, the applicant has been arrested
on 6.10.2021, the Charge-Sheet has been filed on 4.1.2022.

3] Mr. Patil, learned counsel for the applicant
submits that the only allegation against the present applicant
is the statement of the co-accused Bharat Jaibhaye which is to
the effect that he has purchased one stolen mobile and a
pistol with cartridges which was used to threaten the
deceased Rangnath, who was kidnapped by Bharat Jaibhaye
and was threatened with the pistol to keep quiet, who was
later on done to death. He submits that the allegation is false,

apart from the fact that the statement of the co-accused cannot be taken into consideration against the present applicant, apart from which there is no recovery of the pistol. He further submits that the main accused Bharat Jaibhaye as well as accused No. 2 Sachin Kaluse have already been released on bail by this Court in Criminal Application (BA) No. 1138/2021 by order dated 30.11.2021, and the role of the present applicant is insignificant compared to them, in view of which the applicant is entitled to bail.

4] Learned APP does not dispute that there is no recovery of the pistol nor is there any seizure from the applicant. He also does not dispute the role attributed to the applicant, though the same is denied by the applicant.

5] It is not in dispute that the charge-sheet has been filed on 4.1.2022 and the main accused, who in fact have been accused of having being responsible for the death of Rangnath have been released on bail by the order dated 30.11.2021. The only role attributed to the applicant is the procurement from the applicant of the moible, pistol and cartridges by the main accused Bharat Jaibhaye. It is also not disputed that there is no seizure from the applicant, nor the pistol in question has been recovered. Considering this position, the involvement of the applicant in the alleged crime appears as of now prima facie to be a matter of controversy and so also far fetched and considering the role

attributed to him and the fact that the charge-sheet has already been filed on 4.1.2022, a prima facie case for bail is made out. Hence the following order.

ORDER

I] Applicant – Gajanan @ Shivneri Havas Pawar be released on bail in Crime No. 303/2021 registered by the Police Station Amdapur, Tq. Chikhli, District Buldhana, for the offence Sections 302, 201 r/w 34 of the IPC and Sections 3/25 and 4/25 of the Arms Act on executing PR bond in the sum of Rs. 50,000/- with two solvent sureties in the like amount.

II] The applicant shall not tamper with the prosecution evidence or try to undue influence the prosecution witnesses, directly or indirectly.

III] The applicant shall attend each and every date of the Sessions trial and shall ensure that the trial is not protracted on his count.

IV] Any violation of any of the conditions shall result in cancellation of bail.

JUDGE

Rvjalit

Digitally sign by RAJESH
VASANTRAO JALIT
Location:
Signing Date: 22.03.2022 20:19