

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

CRIMINAL APPLICATION (BA) NO. 201 OF 2022

Rohit @ Futtya s/o Rajesh Mool **Versus** State of Maharashtra, thr. PSO., PS. Jaripatka, Nagpur.

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

Court's or Judge's Order

Shri R.M. Daga, Counsel for the applicant.

Ms Shamsi Haider, A.P.P. for the non-applicant /State.

CORAM : ANIL S. KILOR, J.
DATED : 13/07/2022.

1. The applicant is seeking bail in connection with Crime No. 256/2021, registered at Police Station, Jaripatka Nagpur, for the offence punishable under Section 302 of the Indian Penal Code, 1860.

2. Shri R.M. Daga, learned counsel for the applicant submits that the whole case is based on circumstantial evidence and the applicant was arraigned as accused, on the basis of the extra-judicial confession. He submits that it is a settled law that the extra judicial confession is a weak piece of evidence.

3. He further argues that after completion of investigation, the charge-sheet has been filed and further custody of the applicant is not necessary.

4. It is submitted that, the applicant was arrested on 24/04/2021 and since then, for more than one year he is

in jail and there is no likelihood that in near future, the trial will commence.

5. He lastly argues that, even if extra-judicial confession is considered, it can be seen that it was not a pre-meditated murder but in a spur of movement, it took place in a fit of anger. Considering the above referred submissions he prays for grant of bail.

6. On the other hand, Ms Shamsi Haider, learned APP has strongly opposed the present application and submits that in addition to extra-judicial confession, CCTV footage is there, on the basis of which, it can be seen that, the deceased was lastly seen with the present applicant.

7. She submits that, the offence is serious and considering the severity of punishment, he will not be released on bail. Furthermore, in view of the material collected during the investigation, she prays for rejection of the present application.

8. I have perused the Charge-sheet, Application and Reply filed by the State.

9. Initially, the FIR was registered against the unknown person, however, on the next day of the lodgment of the FIR, supplementary statement of the mother of the deceased was recorded and on the basis of the same, the applicant was arraigned as accused.

10. During the investigation, the investigating officer has recorded the statements of Tejas Lonare and Ajubhai@ Ajay Bandu Nirmalkar which show that there

was extra-judicial confession made by the applicant, admitting the alleged offence. However, even if the extra-judicial confession is considered, it appears that it was not pre-mediated but it happened in a feet of anger.

11. Moreover, there is no criminal antecedents to discredit of the applicant. Hence, I am of the opinion that the applicant is entitled for grant of bail.

12. Furthermore, the investigation is over and he is in jail from last more than one year and there is no possibility that in near future the trial will commence. In the above referred circumstances, keeping the applicant in jail for uncertain period would amount to pre-trial punishment. Accordingly, I pass the following order:

- a) The criminal application is **allowed**.
- b) It is directed that the applicant shall be released on bail in Crime No. 256/2021, registered at Police Station, Jaripatka Nagpur, for the offence punishable under Section 302 of the Indian Penal Code, 1860, on his furnishing P.R. Bond of Rs.25,000/- with one solvent surety of like amount.
- c) The applicant shall not enter into Nagpur City till culmination of trial, except for trial.
- d) The applicant shall provide address of the Police Station.

- e) The applicant shall attend the concerned Police Station On 1st and 16th of each month between 10.00 to 12.00 noon.
- f) The State is at liberty to move application for cancellation of bail, in case of breach of any condition or the applicant repeats the similar offence.

The criminal application is **disposed of**, accordingly.

[ANIL S. KILOR, J.]