

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

CRIMINAL APPLICATION (BA) NO.213 OF 2022

Vikas Shankar Rathod

Vs.

The State of Maharashtra through Police Station Officer, Police Station, Jaulka,
Dist. Washim

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, Advocate for applicant.
Mr. I. J. Damle, APP for non-applicant/State.

CORAM : AVINASH G. GHAROTE, J.
DATE : 17/03/2022

Heard Mr. Sirpurkar, learned counsel for the
applicant and Mr. Damle, learned APP for non-applicant/
State.

2. The applicant is arraigned for the offence punishable under Sections 302, 120B, 460 read with 34 of the Indian Penal Code in Crime No.341 of 2021.

3. The incident is dated 18.09.2021. The FIR is lodged on 19.09.2021. The applicant is arrested on 23.09.2021. The charge-sheet has been filed in December 2021.

4. Mr. Sirpurkar, learned counsel for the applicant submits that the applicant has been made an accused on the basis of a statement of co-accused of an extra judicial confession which is inadmissible according

to him. It is further submitted that the charge-sheet would indicate that the accused persons had gone to the residence of the deceased with an intention to commit theft and the role attributed to the applicant was standing in front to keep a watch on the road and nothing else. He therefore submits, that considering the above position, the applicant is entitled for bail.

5. Mr. Damle, learned APP for non-applicant/State opposes the application and submits that the applicant was part of a conspiracy, in connection with the other accused which has led to the demise of Gajanan and Nirmala and therefore, the application needs to be rejected.

6. The incident is dated 18.09.2021, in which the deceased, who were residing in Nath Nange Maharaj Sansthan Chakatirtha, for rendering services, were found dead at about 11.00 a.m. by Pramod Gajanan Nimbalkar. Based upon his complaint an offence came to be registered against unknown persons. During the course of investigation, on account of extra judicial confession made by the accused no.1 Dilip Ratne to his sister-in-law, who reported the same to the Police Patil, the applicant has been made a co-accused along with Dilip Ratne along with one Sunil Kharat, who is still absconding. The charge-sheet reveals that on the fateful day all three of them had gone to the residence of the deceased with an intent to commit theft and the applicant was asked to stand outside the house with an eye on the road so as to

warn the other co-accused in case someone was coming. That is the only role attributed to the applicant, considering which, I do not see any reason to further incarceration of the applicant. Hence, the following order.

ORDER

- (i) The application is allowed.
- (ii) The applicant be released on bail in Crime No.341 of 2021 for the offence punishable under Sections 302, 120B, 460 read with 34 of the Indian Penal Code on furnishing P.R. bond of Rs.50,000/- (Rupees Fifty thousand) with two solvent sureties of like amount.
- (iii) The applicant shall not tamper with the prosecution witnesses and try to influence to them.
- (iv) The applicant shall not indulge any criminal offence whatsoever.
- (v) The applicant shall not enter the jurisdiction of Police Station Jaulka, District Washim, during the course of the trial.
- (vi) The applicant shall attend each and every date in the trail and ensue that the trial is not protract on his count.
- (vii) Violation of any of the above conditions shall result in cancellation of bail.

JUDGE

Sarkate