

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

CRIMINAL APPLICATION (BA) NO. 239/2022
Baliram @ Balu Sitaram Ade..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. G.M.Kubade, Advocate for applicant.
Ms. M.H.Deshmukh, APP for Non-applicant /State

CORAM : AVINASH G. GHAROTE, J.

DATE : 05/05/2022

1] Heard Mr. Kubade, learned counsel for the applicant and Ms. Dehmukh, learned APP for non-applicant/ State.

2] This is the second bail application filed by the applicant, as the earlier bail application No. BA 443/2020, which was decided on 2.12.2020, permitted the applicant to withdraw the application with liberty to move after one year if there is no effective hearing i.e. framing of charge within that period. It is not in dispute that the charge has not been framed. It is therefore submitted that on this count the present application is maintainable.

3] On merits, learned counsel for the applicant submits that applicant has been falsely implicated and there is no direct evidence linking the applicant with the crime in question, on which count also the applicant is entitled to be

enlarged on bail. He further submits that delay in the trial affects the right and on this ground also the applicant is entitled to be enlarged on bail.

4] Learned APP opposes the application and relying upon the statement of Nilesh (page 36), submits that the presence of the accused on the spot of the crime, immediate to its committing, is reflective of the involvement of the applicant, considering which the application be rejected.

5] In so far as the delay is concerned, though **Jagjeet Singh vrs. Ashish Mishra, Criminal Appeal No. 632/2022**, decided on 18.4.2022, is relied upon. It would be material to note that consequent to the order dated 2.12.2020, major portion of the interim period in so far as the working of the trial court, has been affected by Covid-19 pandemic, due to which the delay in commencement of the trial, by itself, cannot be sole ground, which would entitle the applicant to be enlarged on bail.

6] In so far as the merits are concerned, the statement of Nilesh would indicate that there is hardly any time lapse, between the deceased shouting and Nilesh who was sleeping in the adjacent room upon hearing the voice, rushing to the adjacent room where the deceased was sleeping and finding the applicant standing there, with the deceased

having a sickle embeded in her head, which is cause of her death, considering which the involvement of the applicant prima facie appears to be there, in view of which I do not feel that this is an appropriate case for enlarging the applicant on bail, the application is therefore rejected.

Rvjalit

JUDGE