

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

CRIMINAL APPLICATION (BA) NO. 248 OF 2022
Nanu Nilkanth Kanhekar...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.C.B.Barve, Advocate for the applicant.
Mr. A.R.Chutke, APP for respondent /State

CORAM : AVINASH G. GHAROTE, J.

DATE : 01/04/2022

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

2] The applicant has been arraigned for the offence under Sections 302, 201 of the IPC in Crime No. 302/2020. The FIR is dated 5.6.2020. The applicant has been arrested on 4.9.2020, the charge-sheet has been filed on 10.10.2020.

3] Mr. Barve, learned counsel for the applicant submits that the applicant has been arrested merely on the basis of suspicion of having been last seen with the deceased Lachha @ Laxman Budharam Bawne. He submits that there is no direct evidence linking the applicant with the aforesaid crime. Even the statement of having been last seen is not corroborated by anything else and therefore, the applicant is entitled for bail.

4] Mr. Chutke, learned APP opposes the application and contends that the statements of Raju Meshram and Ajay Manghate indicate the presence of the applicant with the deceased on 3.6.2020, between 5 to 6 p.m at the liquor kiln of one Jaiswal at Kanhan. Reliance is also placed upon the statement of Sanjay Kanhekar, the brother of the applicant, who is claimed to have identified the shirt wound around the neck of the deceased, as that belonging to his father, which was worn by the applicant on the fateful day.

5] The record shows that on 3.6.2020, the deceased was seen with the applicant at the country liquor kiln being run by one Mr. Jaiswal at Kanhan. Thereafter there is no trace of the deceased and it is only on 5.6.2020 when the body was found, that the FIR was registered and the applicant has been arrested on 4.9.2020. There is nothing on record to indicate the location of the country liquor kiln of Mr. Jaiswal and the place where the body was found. Though the witness Sanjay Kanhekar states that the shirt found wound around the neck of the deceased belongs to his father and was worn by the applicant on 3.6.2020, surprisingly though the record does indicate seizure of such shirt, however, the statement of Sanjay Kanhekar merely refers to a photograph, which is not part of the record. It does not appear that the shirt in question was ever shown to him for the purpose of identification and

therefore prima facie the statement of the witness Sanjay Kanhekar cannot be considered as a linking factor, between the shirt which is identified by him as being worn by the applicant on 3.6.2020 with the shirt which was seized, considering which a prima facie case for bail is made out, as the case is based only upon the last seen theory. Hence, the following order.

I] The application is allowed.

II] The applicant Nanu s/o Nilkanth Kanhekar, be released on bail for the offence under Sections 302, 201 of the IPC in Crime No. 302/2020, registered with the New Kamptee Police Station, District Nagpur, on executing PR bond in the sum of Rs. 50,000/- with two solvent sureties of the like amount.

III] The applicant shall not tamper the prosecution evidence and shall not undue influence the prosecution witnesses in any manner whatsoever.

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

V] Any breach of conditions shall result in cancellation of bail.

Rvjalit

JUDGE

Digitally sign byRAJESH
VASANTRAO JALIT
Location:
Signing Date:01.04.2022 16:46