

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

CRIMINAL APPLICATION (BA) NO.287 OF 2022

Amar s/o Bhujbal Raghorte

Vs.

State of Maharashtra, Through PSO Aroli, District Nagpur

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

Court's or Judge's orders

Mr. R. R. Vilayatkari, Advocate for applicant.
Mr. A. R. Chutke, APP for non-applicant/State.

CORAM : AVINASH G. GHAROTE, J.
DATE : 21/04/2022

Heard Mr. Vilayatkari, learned counsel for the
applicant and Mr. Chutke, learned APP for non-applicant/
State.

2. The applicant has been arraigned for the
offence punishable under Section 302 of the Indian Penal
Code, registered with Police Station, Aroli, District
Nagpur in Crime No.142 of 2021.

3. The incident is dated 26.09.2021. The
applicant has been arrested on 30.09.2021. The
charge-sheet has been filed on 24.12.2021.

4. Mr. Vilayatkari, learned counsel for the
applicant submits that the applicant has been falsely
implicated. There are no criminal antecedents to the
applicant. The entire case would demonstrate that there

is no eyewitnesses, to the alleged incident and even if, the presence of the applicant at the house of the deceased on 26.09.2021, is claimed to have been established, there is nothing else to indicate that the demise of the deceased, was due to any action attributable to the applicant.

5. Mr. Chutke, learned APP for non-applicant/State opposes the application and submits that in view of the presence of the applicant in the house of the deceased on the fateful day and the statement of Bhagaratha Shankar Shende (pg. 87) and Aasha Ratiram Ukey (pg. 89), the involvement of the applicant in the demise of the deceased cannot be ruled out.

6. The incident is alleged to have occurred on 26.09.2021 at about 9.00 p.m. According to the complainant Smt. Laxmi Harichand Shahare, the daughter of the deceased (pg. 81), she has been informed about the same by Ravindra Hiranman Harode (pg. 83) that his employee the deceased Sukhram Mule, some time in the morning on 27.09.2021 had informed him that the applicant had assaulted him by fist and kicks. The said Ravindra Hiranman Harode further states that he had informed about this to Bhagaratha Shankar Shende and Aashabai Ratiram Ukey. However, the statement of Bhagaratha Shankar Shende and Aasha Ratiram Ukey (pg.87 and 89) merely states that they had

heard Sukharam stating to someone present in his house, not to assault him, apart from which they also stated that after some time they had seen the applicant come out of the house of deceased Sukharam. However, the timing regarding this is stated to be at 7.00 p.m. by Bhagaratha and 6.00 p.m. by Aasha. Whereas the statement of Laxmi (pg. 81) says that her father had told her that the said incident had occurred at about 9.00 p.m. It is therefore apparent that there are material contradiction in the statements of Laxmi, Ravindara, Bhagaratha and Aasha, which *prima facie*, as of now, are not being reconciled. That apart, nobody says that he/she has seen the applicant assaulting the deceased, considering the involvement of the applicant in the aforesaid crime, it appears to be tenuous, at the most, considering which, the case for bail is made out. Hence, the following order.

ORDER

- (i) The applicant is allowed.
- (ii) The applicant be released on bail in Crime No.142 of 2021 for the offence punishable under Section 302 of the Indian Penal Code, registered with Police Station, Aroli, District Nagpur, on his executing P.R. bond of Rs.50,000/- (Rupees Fifty thousand) with two solvent sureties of the like amount.
- (iii) The applicant shall not tamper with the prosecution evidence nor shall try to influence them in any manner whatsoever.
- (iv) The applicant shall not indulge into any criminal activity while on bail.

(4)

27.ba.287.2022

(v) The applicant shall attend each and every date before the learned Sessions Court and shall ensure that the trial is not protracted on his count.

(vi) Violation of any of these conditions shall result in cancellation of bail.

JUDGE

Sarkate