

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

CRIMINAL APPLICATION (BA) NO.339 OF 2022

Ganesh @ Barra @ Vicky s/o Rama Dandekar **Versus** State of Maharashtra, through
PSO, PS MIDC, 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.

Shri T.A.Mirza, A.P.P. for the non-applicant/State.

CORAM : ANIL S. KILOR, J.

DATED : 22/08/2022

1. The applicant is seeking bail in connection with Crime No. 430 of 2019, registered with Police Station M.I.D.C., Nagpur, for the offences punishable under Sections 143, 147, 149, 302 of the Indian Penal Code, 1860 and Section 135 of the Maharashtra Police Act.

2. Shri Daga, learned counsel for the applicant submits that, the applicant is in jail from last three years. While withdrawing the first application filed by the applicant, this Court vide order dated 19/01/2021 granted liberty to file bail application before the Court below, if the trial does not proceed against the applicant within a period of seven months.

3. It is submitted that, there is no progress in the trial and there is no likelihood that, the trial would commence in near future.

4. Shri Daga, learned counsel for the applicant further submits that, on the basis of hearsay information, the FIR came to be lodged by the mother of the deceased.

5. Shri Daga, the learned counsel for the applicant further points out that, co-accused Akshay and Arjun have been released on bail and the applicant is similarly circumstanced. Accordingly, he submits that, the applicant is entitled for grant of bail on the principles of parity.

6. On the other hand, learned APP strongly opposed the present application and submits that the statement of witness, Dinesh Paswan is sufficient to show the involvement of the applicant in the alleged offence. It is submitted that, since the offence is serious, this Court may not grant bail to the applicant.

7. I have perused the charge-sheet and the FIR.

8. From the FIR, it appears that it was lodged on the basis of hearsay information received by the mother of the deceased.

9. If the role attributed to the applicant and other co-accused persons and the nature of assault as alleged by the witness, Dinesh Paswan, is compared with the injuries mentioned in Post Mortem Report, it can be seen that, there is only one crush injury which is also the cause of death. Whereas, it is alleged that the deceased was hit on the head with stone by all the accused.

10. In total, there were eight injuries, out of which, two were abrasions and five were incised wounds. *Prima-*

facie, there is nothing to show that the applicant is the author of the crush injury.

11. The applicant is in jail from last about three years and similarly circumstanced accused namely Akshay is already released on bail. Thus, I am of the opinion that, the applicant is entitled for grant of bail. Accordingly, I pass the following order:

- a) The criminal application is **allowed**.
- b) It is directed that in the applicant in Crime No.430 of 2019, registered with Police Station M.I.D.C., Nagpur, for the offences punishable under Sections 143, 147, 149, 302 of the Indian Penal Code, 1860 and Section 135 of the Maharashtra Police Act, the applicant shall be released on bail on furnishing P.R. Bond of Rs.25,000/- with one solvent surety in the like amount.
- c) The applicant shall attend the concerned Police Station on 1st and 16th day of each month between 10.00 a.m. to 12.00 noon, till the culmination of the trial.
- d) The applicant shall not tamper with the prosecution witnesses.

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