

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

CRIMINAL APPLICATION (BA) NO.416 OF 2022

Dhananjay S/o Anil Ukey

Versus

State of Maharashtra, through P.S.O., P.S. Gadchiroli, Tq. & Dist. Gadchiroli

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Shri C.R.Thakur, Advocate for the applicant.

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

CORAM : ANIL S. KILOR, J.

DATED : 21st JUNE, 2022

1. The applicant is seeking bail in Crime No.409 of 2021, dated 24.06.2021, registered with Police Station Gadchiroli, District Gadchiroli, for the offences punishable under Sections 302 and 201 of the Indian Penal Code.

2. Shri Thakur, learned counsel for the applicant submits that co-accused has already been granted bail by this Court vide order dated 13th June, 2022 in Criminal Application No.444 of 2022 and as such the applicant is entitled for grant of bail on the ground of parity.

3. Learned counsel for the applicant further submits that the incident took place in the night between 23.06.2021 and 24.06.2021. The First Information Report (FIR) came to be registered on 24.06.2021. It is submitted that the whole case is based on circumstantial evidence.

3. It is further submitted that even the case is not based on last seen theory, but only on the basis of confessional statement of co-accused, the applicant has been arraigned as accused.

4. It is further submitted that the CCTV footage on which the prosecution is relying upon, it shows the applicant and other two accused persons speaking a month before the incident. He further submits that there is no direct or indirect evidence to show the involvement of the applicant in the alleged offence. He accordingly, submits that after completion of the investigation, charge-sheet has been filed and as such, the custody of the applicant is no more required.

5. On the other hand, Shri Mirza, learned APP strongly opposes the present application and submits that the confessional statement is sufficient to show the involvement of the applicant.

6. I have perused the charge-sheet and also the contents of the FIR.

7. On perusal of the charge-sheet, it can be seen that the confessional statement of co-accused was recorded by the Police and that was the basis to make the applicant as accused. Except the said statement, *prima facie* there is no

incriminating material available on record against the applicant to show his involvement.

8. As far as, the CCTV footage is concerned, the panchanama shows that the date of CCTV footage is 25.05.2021 i.e. one month before the date of incident. Moreover, the said panchanama indicates that the applicant and other two co-accused persons were talking.

9. Thus, there is no sufficient incriminating material is there to show the involvement of the applicant in the alleged offence.

10. Also, the applicant is entitled for grant of bail on the ground of parity as the co-accused i.e Prashant Khobragade was granted bail vide order dated 13th June, 2022 in the same offence. In addition to this, as the investigation is over and the charge-sheet has been filed, I am of the opinion that the in the above referred backdrop, 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 the applicant shall be released on bail in Crime No.409 of 2021, dated 24.06.2021, registered with Police Station Gadchiroli, District Gadchiroli, for the offences

punishable under Sections 302 and 201 of the Indian Penal Code, 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 as and when his presence is required.
- d) The applicant shall not tamper with the prosecution witnesses.
- e) The applicant shall not leave the jurisdiction of the concerned Police station without permission of the Court.

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

[ANIL S. KILOR, J.]

SACHINDANAND
K NAIR

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