

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

CRIMINAL APPLICATION (BA) NO.405 OF 2022

(SUBHASH SAKHARAMJI BHAKRE....VS.. STATE OF MAH. THR. PSO PS KORADI, NAGPUR)

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

Court's or Judge's orders

Shri Akshay Pandya, Adv. h/f. Shri F.F.Sheikh, Advocate for Applicant.
Ms Mrunal Barabde, A.P.P. for Non-applicant/State.

CORAM : ANIL S. KILOR, J.
DATED : JUNE 16, 2022.

1. Heard.

2. This is an application under Section 439 of the Code of Criminal Procedure for grant of regular bail in connection with Crime No.216 of 2021, registered with Police Station, Koradi, District: Nagpur for the offences punishable under Sections 302, 201 read with Section 34 of the Indian Penal Code.

3. The learned counsel for the applicant submits that the charge-sheet has been filed after completion of investigation, as such no further custody of the applicant is necessary. He further submits that there is no direct evidence against the applicant showing involvement of the applicant in the alleged offence. He further submits that as there are no eyewitness also, the case is wholly based on circumstantial evidence. He submits that the applicant is 56 years old and his occupation is labour and in absence of any incriminating material available against the applicant,

keeping the applicant in jail amounts to punishing the applicant even before he is convicted on finding guilty for the alleged crime. Accordingly, he prays for grant of bail.

4. On the other hand the learned A.P.P. strongly opposed the application. She submits that there are criminal antecedents. In 1993 a crime was registered against the applicant for the offences punishable under Sections 302, 307, 141, 143, 147, 149 of the Indian Penal Code. She, therefore, submits that there is every possibility that the applicant may repeat the offence.

5. I have perused the charge-sheet. Even if the case of the prosecution is taken into consideration, prima facie, it can be seen that there was exchange of hot words between the accused and the deceased and due to sudden provocation the accused persons gave a blow by spade on the head of the deceased due to which he died. Prima-facie, there is nothing to show that there was an intention or it was premeditated. The whole case is based on circumstantial evidence.

6. In that view of the matter and as the charge-sheet has already been filed and custody of the applicant is no more required, I am of the opinion that the applicant is entitled for grant of bail. As far as antecedents are concerned the said offence was registered in the year 1993, however, nothing is pointed out whether the applicant was convicted or acquitted in the said offence.

7. Furthermore, there is nothing to show that there is any possibility if the applicant is released on bail he would pressurize the prosecution witnesses or tamper the prosecution evidence or he will not be available for trial.

8. In the circumstances, I am of the opinion that the applicant is entitled for grant of bail. Accordingly, I pass the following order:

- i) The application is allowed.
- ii) It is directed that the applicant shall be released on bail in connection with Crime No.216 of 2021, registered with Police Station, Koradi, District: Nagpur for the offences punishable under Sections 302, 201 read with Section 34 of the Indian Penal Code on furnishing P.R. Bond in the sum of Rupees Twenty Five Thousand with one solvent surety in the like amount.
- iii) The applicant shall not tamper with the prosecution evidence.
- iv) The applicant shall not leave the jurisdiction of the concerned Police Station without leave of the Court.

- v) The applicant shall attend the trial before the Sessions Court regularly on every date unless exemption is granted by the Sessions Court.

The Criminal Application is **disposed of** accordingly.

JUDGE

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