

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

Criminal Application (BA) No. 638 of 2022

Sandeep Samandarsingh Tak

Versus

State of Maharashtra, through Police Station Officer,
Police Station Ramnagar, Chandrapur Tah. & Dist. Chandrapur.

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

Court's or Judge's Order

Shri R.L.Alone, Advocate for the applicant.

Ms Mrunal Barbde, APP for the State / Non-applicant

CORAM : ANIL S. KILOR, J.

DATED : 6th JULY, 2022.

The applicant is seeking bail under Section 439 of the Code of Criminal Procedure in Crime No.1327 of 2019 dated 19th October, 2019 registered with Police Station Ramnagar, Dist. Chandrapur for the offence punishable under Sections 302, 364(A), 384, 386, 143, 147, 148, 149, 504, 506, 120(B) of Indian Penal Code and Section 3 read with Section 25 of Arms Act.

2. Learned counsel for the applicant submits that after withdrawal of first application on showing disinclination by this Court to grant bail, as the liberty

to move a fresh application was granted, the present application came to be filed.

3. He submits that no role is attributed to the applicant in the alleged offence. It is submitted that in the First Information Report even the name of the applicant does not feature, however, in supplementary statement the wife of deceased improvised her statement she disclosed the name of the applicant.

4. He further submits that application for grant of bail moved before the learned trial Court is kept pending by the trial court and granted liberty to make fresh application after examination of the two main witnesses or to make submission on merits on the same application itself.

5. He further submits that as sufficient period is over and as per the trial Court order dated 27th April, 2022, two witnesses were not examined, therefore, the applicant has moved the present application before this Court.

6. Learned Additional Public Prosecutor has strongly opposed the application.

7. The applicant has withdrawn his first application on the ground that this Court was not inclined to grant bail to the applicant. However, in view of the liberty granted by this Court the applicant has

moved the application before the trial court for grant of bail on the ground that after the withdrawal of first application on 11th August, 2021, there was no progress in trial. However, the trial Court vide order dated 27th April, 2022 has observed that the trial is yet to commence in effective manner and presence of all accused persons and their learned advocates is required, therefore, blame cannot be shared by the prosecution or the court in eventual delay in the commencement of trial.

8. The learned trial court further observed that if the accused and their learned advocate co-operate with the Court and at least the aggrieved victim i.e. the informant is examined and eye witness Banti is also examined, the application of the applicant can be heard as possibility of causing pressure, inducement or threat to the informant or eye witness would be minimised. The learned trial court further observed that the learned counsel appearing for the applicant has fairly consented for the same and therefore instead of deciding the application liberty was granted by the learned trial Court to move a fresh application after examination of the said two witnesses namely the informant and a witness Banti.

9. The above referred order dated 27th April, 2022, shows that the learned counsel for the present applicant appearing in the said matter has consented for the above referred arrangement.

10. In that view of the matter, the present application cannot be entertained and accordingly, it is rejected.

[ANIL S. KILOR, J.]

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