

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

Criminal Application (BA) No.640/2022

Krishna Kamble V State of Maharashtra thr PSO Tiroda, Gondia

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders

Ms Shiba Thakur, Advocate for applicant.
Shri V.A. Thakare, APP for State.

CORAM : ANIL S. KILOR, J.
DATE : 07-07-2022

The applicant has approached to this Court by filing the present application under Section 439 of the Code of Criminal Procedure for grant of bail in connection with Crime No.0202/2020 dated 27-05-2020 registered with Police Station Tiroda, District Gondia for the offence punishable under Section 302 read with Section 34 of the Indian Penal Code.

2. The learned Counsel for the applicant submits that while rejecting the first bail application vide order dated 18-08-2021, this Court had permitted the applicant to approach the learned trial Court, afresh if there is no significant progress in trial, in next six month. She submits that as there is no progress in trial, the present application came to be filed.

3. It is submitted that except the present applicant all

other co-accused persons have been released on bail. Accordingly, she claims parity.

4. The learned Counsel for the applicant further argues that only on the basis of a statement of a 10 years old boy, the offence came to be registered. It is submitted that there is a possibility that he might have pressurized to state against the accused persons. Accordingly, she submits that, as the applicant is falsely implicated in the alleged offence, he may be released on bail.

5. The learned Counsel for the applicant lastly argues that the applicant is in jail from last more than two years and as there is no substantive progress in the trial, keeping the applicant in jail for uncertain period would amount to pre-trial punishment.

6. On the other hand, learned APP strongly opposed the application and submitted that there is sufficient incriminating material available to conclude that the applicant is involved in the alleged offence.

7. He further submits that the first application of the applicant was rejected on merits and therefore in absence of change in circumstances this Court would not consider the case of the applicant on merits.

8. The learned APP further submits that accused nos.2 and 3 were released on bail being women and accused no.4 was released considering his age. Thus, he submits that the applicant cannot claim parity. Accordingly, he prays for rejection of the present application.

9. I have perused the chargesheet and the First Information Report.

10. The statement of an eye witness, who is a 10 years old boy, is sufficient to prima facie show the involvement of the applicant in the alleged offence. Moreover, the recovery at the instance of applicant, the spot of incident and the presence of accused persons at the time of incident, prima facie, to support the case of the prosecution as circumstantial evidence.

11. As far as the bail granted to other co-accused is concerned, accused nos. 2 and 3 being the women and accused no.4 being an old aged person, the bail was granted. Therefore, the applicant cannot claim parity.

12. This Court while considering the request of the applicant for grant of bail denied the said prayer, thereupon, the learned Counsel for the applicant withdrew the said application on 18-08-2021.

13. As far as the progress of the trial is concerned, the learned APP made a submission that the case is fixed for charge. Thus, in the above referred backdrop, I am of the opinion that if the trial is expedited the purpose would be served. Accordingly, I pass the following order.

ORDER

- i) Application is rejected.
- ii) The trial Court is requested to expedite the trial.

(Anil S. Kilor, J.)