

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

Criminal Application (BA) No.659/2022

Shankar Navkar V State of Maharashtra thr PSO PS Khamgaon Gramin, Buldhana

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

Court's or Judge's Orders

Shri V.D. Kohade, Advocate for applicant.
Mrs. Shamsi Haider, APP for State.

CORAM : ANIL S. KILOR, J.
DATE : 18-07-2022

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.0306/2020 registered with Police Station Khamgaon Gramin, District Buldhana for the offences punishable under Sections 363, 302 read with section 34 of the Indian Penal Code.

2. The learned Advocate for the applicant submits that only on the basis of last seen theory, the applicant has been arraigned as accused in the alleged offence. He submits that there are contradictions in the statements of the witnesses. He further submits that the applicant is in jail from September, 2020 and there is no progress in trial and as the investigation is over, his further custody is no more required.

3. On the other hand, learned APP strongly opposed the application and submits that considering the nature and seriousness of offence, this Court may not grant bail to the applicant.

4. Further, she submits that the statement of accused under Section 164 of Cr.P.C. were recorded during the investigation. Thus, she submits that there is sufficient prima facie incriminating material available to show the involvement of the applicant in the alleged crime.

5. I have perused the chargesheet, application and the reply of the learned APP.

6. The chargesheet shows that there are statements of witnesses who have seen the applicant along with the deceased. It has come in the statements of witnesses that the accused persons have initially assaulted the deceased and thereafter they took him on their motorcycle. Thus, there are witnesses who have seen the deceased lastly with the present applicant and the other co-accused.

7. The post mortem report shows that there are 13 injuries found on the person of deceased.

8. Thus, considering the character of evidence collected

by the Investigating Officer during the investigation, coupled with the nature and seriousness of the offence, I am of the opinion that, the applicant is not entitled for grant of bail. Accordingly, I pass the following order:-

ORDER

- i) Application is rejected.
- ii) However, considering the fact that the case of the applicant is based on circumstantial evidence, liberty is granted on a prayer of the Counsel for the applicant, to apply a fresh in case there will be no substantive progress in the trial, in next one and half years.

(Anil S. Kilor, J.)