

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

Criminal Application (BA) No. 713 of 2022

Kundan S/o Ashok Thakre

Versus

State of Maharashtra, through Police Station Officer, Police Station
Desaiganj, 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 A.C.Jaltare, Advocate for the applicant.

Shri T.A. Mirza, APP for the State / Non-applicant

CORAM : ANIL S. KILOR, J.

DATED : 8th JULY, 2022.

The applicant is seeking bail under Section 439 of the Code of Criminal Procedure in Crime No. 541 of 2021 dated 12th October, 2021 registered with Police Station Desairganj Dist. Gadchiroli for the offence punishable under Section 302 of Indian Penal Code.

2. Learned counsel for the applicant submits that whole case is based on circumstantial evidence and on the basis of last seen, the applicant has been arraigned as an accused in this case. He further submits that there are no criminal antecedents to the discredit of

the applicant. He further submits that after completion of investigation, the chargesheet has been filed, as such the custody of the applicant is no more required in this case. Accordingly, he prays for grant of bail.

3. On the other hand, learned Additional Public Prosecutor opposes the application and submits that there is a statement of a witness who has seen the applicant with the deceased and considering the said fact the offence came to be registered against the applicant. He further submits that as there is sufficient incriminating material to show the involvement of the applicant in the alleged offence, this Court may not consider the prayer for grant of bail.

4. I have perused the chargesheet, First Information Report and the reply filed by the State.

5. Postmortem report does not disclose anything about the injury or the cause of death for the reason that the body was decomposed. According to the prosecution, the deceased was lastly seen with the applicant on 2nd October, 2021 and thereafter her body was found on 12th October, 2021 i.e. after about 10 days and it was in the decomposed condition. In the postmortem report, in the column of the cause of death, the doctor has opined that the cause of death cannot be ascertained due to fully decomposed body.

6. In the circumstances, in absence of any incriminating material against the applicant, I am of the opinion that the custody of the applicant is not necessary in this case after the investigation is over.

7. Moreover, there is no likelihood that in near future trial will commence and it will be completed. Furthermore, there is nothing to show if the applicant is released on bail, he may pressurise the prosecution witnesses or he will not be available for trial. In that view of the matter, I pass the following order.

- i. Criminal application is allowed;
- ii. It is directed that the applicant shall be released on bail in Crime No. 541 of 2021 dated 12th October, 2021, registered with Police Station Desairganj Dist. Gadchiroli for the offence punishable under Section 302 of Indian Penal Code, on furnishing P.R.Bond of Rs.25,000/- with a solvent surety in the like amount;
- iii. The applicant shall attend the concerned police station on 1st and 16th day of every month between 10 am to 12 noon till the conclusion of the trial;
- iv. The applicant shall not directly or indirectly make any inducement, threat or promise to any person

acquainted with the facts of the case, as also not tamper with the evidence;

iv. The applicant shall not leave the jurisdiction of the concerned police station without permission of the Court.

[ANIL S. KILOR, J.]

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