

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

CRIMINAL APPLICATION (BA) NO. 752 OF 2022

Gotya @ Rakesh s/o Rajendra Durbude **Versus** State of Maharashtra, thr. PSO P.S. Pardi, Nagpur

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

Court's or Judge's Order

Shri R.M.Patwardhan, counsel for the applicant.

Shri S.D.Sirpurkar, APP for the non-applicant No/State.

CORAM : ANIL S. KILOR, J.
DATED : 25/07/2022

1. The applicant is seeking bail in Crime No. 476 of 2021, dated 05/09/2021, registered with Police Station P.S. Pardi, Nagpur, for the offences punishable under Sections 302, 323, 447, 120-B read with Section 34 of the Indian Penal Code 1860

2. Shri R.M.Patwardhan, learned counsel for the applicant submits that, the deceased died of stab injury which was inflicted by the co-accused Piyush Panchbudhe. It is submitted that no role is attributed against the applicant.

3. It is further pointed out that the recovery under Section 27 of the Indian Evidence Act, the knife used in the alleged offence, was at the instance of co-accused Piyush Panchbudhe. Thus, he submits that there is no evidence against the applicant showing his involvement in the alleged offence.

4. He further submits that, the applicant is in jail for more than 10 months and as the investigation is over and the charge-sheet has been filed, considering the role of the applicant in the alleged offence, further custody of the applicant is not necessary. Accordingly, he prays for grant of bail.

5. On the other hand, learned APP strongly opposed the present application and submits that the offence is serious and as such this Court may not grant bail to the applicant.

6. I have perused the Charge-sheet and the FIR.

7. In this case, the Post Mortem Report shows that the cause of death is due to injury on the vital structure. Column no. 17 of the P.M.Report shows that there was a stab wound over left inguinal region with one incised wound.

8. The knife was recovered from the co-accused Piyush Panchbudhe under Section 27 of the Indian Evidence Act. *Prima-facie*, it can be seen that the stab injury was caused to the deceased at the instance of the co-accused Piyush Panchbudhe.

9. There is no criminal antecedents to the discredit of the applicant.

10. In the above referred backdrop, as the applicant is in jail from last about 11 months and the investigation is over in this case, I am of the opinion that further custody of the applicant is not necessary. Accordingly, I pass the following order:

- a) The criminal application is **allowed**.
- b) It is directed that in Crime No. 476 of 2021, registered with Police Station, Pardi, District Nagpur, for the offences punishable under Sections 302, 323, 447, 120-B read with Section 34 of the Indian Penal Code, 1860, the applicant shall be released on bail on furnishing P.R. Bond of Rs.25,000/- with one solvent surety in the like amount.
- c) The applicant shall attend the concerned Police Station on 1st and 16th day of each month between 10.00 a.m. to 12.00 noon, till the culmination of trial.
- d) The State is at liberty to apply for cancellation of bail, in case of breach of any condition or the applicant commits any serious offence.

The criminal application is **disposed of**, accordingly.

[ANIL S. KILOR, J.]