

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

Criminal Application (BA) No.807/2022

Sunil Khapate V State of Maharashtra thr PSO PS Washim City

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

Court's or Judge's Orders

Shri A.M. Jaltare, Advocate for applicant.

Shri S.D. Sirpurkar, APP for State.

CORAM : ANIL S. KILOR, J.

DATE : 25-07-2022

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.1389/2021 registered with Police Station Washim, District Washim for the offences punishable under Sections 307, 504 read with Section 34 of the Indian Penal Code.

2. Learned Counsel for the applicant has submitted that initially the FIR was registered for the offence punishable under section 307 of the IPC on 27-11-2021. However, after the death of the deceased, Section 302 of the IPC was added on 10-12-2021.

3. It is pointed out that the deceased was discharged from the hospital and thereafter because of formation of septicemia he died on 10-12-2021. Thus, he submits that the death was not

because of stab injuries allegedly caused because of the applicant. He further submits that in this case the investigation is over and the chargesheet has been filed. He further points out that the applicant is in jail from last about 9 months and his further custody is no more required.

4. On the other hand, learned APP strongly opposes the application and submits that the offence is serious and considering the character of evidence collected by the Investigating Officer the applicant may not be granted bail.

5. I have perused the chargesheet and the First Information Report (FIR).

6. The discharge document of the deceased, from the hospital, dated 06-12-2021 shows that the doctor had opined that the patient/deceased need ICU backup/Oxygen. The said note further shows that the relatives of the deceased had not shown willingness for providing ICU backup/Oxygen to the deceased.

7. Further, the post mortem report shows that the cause of death is due to septicemia in operated case of the stab injury. Thus, prima facie, it appears that subsequent to the discharge of the deceased because of formation of septicemia and because of post operative changes the deceased died.

8. The applicant is in jail from November, 2021. There are no criminal antecedents to the discredit of the applicant. In this case, the chargesheet has been filed after completion of the investigation. Thus, in the above referred backdrop, I am of the opinion that further custody of the applicant is not necessary.

9. As far as apprehension expressed by the learned APP that if the applicant is released on bail he may pressurize the prosecution witnesses, the same can be addressed by imposing certain stringent conditions. Accordingly, I pass the following order:-

ORDER

- i) Application is allowed.
- ii) The applicant in Crime No.1389/2021 registered with Police Station Washim, District Washim for the offences punishable under Sections 307, 504 read with Section 34 of the Indian Penal Code, be released on bail on furnishing P.R. Bond of Rs. 25,000/- with one solvent surety in the like amount.
- iii) The applicant shall not enter into the territorial jurisdiction of Washim City till the culmination of trial except for the purpose of trial.
- iv) The applicant shall provide his address alongwith the

name of the Police Station which he shall attend on 1st and 16th day of each month between 10.00 am to 12.00 noon, till the culmination of trial.

v) 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.

vi) Liberty is granted to the State that in case the applicant repeats the similar offence, the State may file application for cancellation of the bail.

(Anil S. Kilor, J.)