

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

CRIMINAL APPLICATION (BA) NO. 980 OF 2022

Nandam Lasmayya Segyam .Vs. State of Maharashtra, thr. PSO, PS Asaralli, Tah.Sironcha, 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 R.M. Daga, counsel for the applicant.

Shri N.R.Rode, A.P.P. for the non-applicant /State.

CORAM : ANIL S. KILOR, J.

DATED : 22/11/2022

1. Heard.
2. The applicant is seeking bail in connection with Crime No. 54/2021, registered with Police Station Asaralli, District Gadchiroli, for the offences punishable under Sections 302, 307 read with Section 34 of the Indian Penal Code, 1860 (hereinafter referred to 'the Code').
3. In this case, on 06/11/2021, informant Aliram along with his two associates namely Ramesh Sidam and Samayya Gora were performing duties as Forest Guard. At about 1.00 p.m., four persons came by motorcycle and suddenly one person took out a knife and stabbed Samayya Gora. Due to the said incident, Samayya sustained injury in his abdomen and was shifted to the hospital, where he died on 09/11/2021.
4. In between, on 07/11/2021, a report was lodged by the informant Aliram Tekam and thereupon initially the offence was registered under Section 307 read

with Section 34 of the Code against the four unknown persons, and after the death of Samayya Gora, Section 302 of the Code was added.

5. I have gone through the charge-sheet filed after completion of the investigation. The only material against the applicant in absence of the identification parade, is recovery under Section 27 of the Indian Evidence Act (for short the 'the Act') and the statement of Raju Shankar Kadarla, who in his statement dated 10/11/2021 has stated that, while deceased was admitted in the hospital at Hyderabad, the deceased said to him in presence of Shankar Narhari that Nandan Lasmayya Segyam i.e. the applicant inflicted the blow by knife in his abdomen, for no reason.

6. If the recovery of knife under Section 27 of the Act is concerned, no blood stains were found on the same.

7. As far as the statement of Raju Shankar Karadla is concern, he states that the deceased gave dying declaration to him disclosing the name of the applicant.

8. At this stage, the same cannot be relied upon, for the reason that Shankar Narhari who was present along with him, he did not disclose about such dying declaration in his statement under Section 164 of the Code of Criminal Procedure.

9. Moreover, there is further reason to say that, because the deceased was initially taken to Hospital at Sironcha, therefrom, Manchariya and from there lastly to

the hospital at Hyderabad where he died after performing operation.

10. During this period, Raju Shankar Kadarla and Shankar Narhari were accompanying the deceased and in the statement of Narhari, he has not disclosed any such fact or there is nothing to show that immediately after the incident when the deceased was taken to the hospital at Sironcha, the deceased made dying declaration. Thus, *prima-facie*, it creates doubt about the involvement of the applicant, particularly in absence of the test identification parade, which ought to have held in this case as witnesses have stated that the faces of assailants could not be seen because of scarfs on their faces.

11. At this stage, the learned APP points out that one mobile phone was recovered from the spot and on verification it was found that, it belongs to one Raghu Nandan Segyam and not the applicant.

12. Thus, *prima-facie*, recovery of mobile phone also doesn't go against the applicant.

13. In these circumstances, in absence of any incriminating material against the applicant to show his involvement or in absence of any sufficient evidence, to *prima-facie* connect the applicant with the alleged offence, I am of the view that, the applicant shall be released on bail. Accordingly, I pass the following order:

- a) The criminal application is **allowed**.

- b) It is directed that in connection with Crime No. 54/2021, registered with Police Station Asaralli, Tah. Sironcha, District Gadchiroli, for the offences punishable under Sections 302, 307 read with Section 34 of the Indian Penal Code, 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 the trial.
- d) The State is at liberty to move application for cancellation of bail, in case of breach of any condition or the applicant repeats the similar offence
- e) The applicant shall not tamper with the prosecution witnesses.

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

JUDGE