

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

CRIMINAL APPLICATION (BA) NO. 1054 OF 2022

Shahrukh Khan Subhan Khan **Versus** State of Maharashtra, through P.S.O., P.S. Mangrulpir, Dist. Washim.

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

Court's or Judge's Order

Shri V.R.Deshpande, Advocate with Shri Digvijay S. Rangilal,
Advocate for the applicant.

Shri A.S.Ashirgade, A.P.P. for the non-applicant/State.

CORAM : ANIL S. KILOR, J.

DATED : 22/09/2022

Heard.

2. The applicant is seeking bail in connection with Crime No. 174/2019, registered with Police Station Mangrulpir, District Washim for the offence punishable under Sections 120B, 342, 380, 395, 427, 506B read with Section 34 of the Indian Penal Code, 1860.

3. This is third application moved by the applicant for grant of bail. His second application was rejected on 22/11/2021 and thereafter, two co-accused were released on bail by this Court vide order dated 07/03/2022. Therefore, in the change in circumstances, the present application came to be filed.

4. The another ground for moving the present application is that, while arguing second bail application, it was not pointed out to this Court that earlier the offence was registered under Sections 380 and 427 of the Indian Penal

Code and the trial Court has granted bail to the applicant vide order dated 03/07/2019.

5. Subsequently, Section 395 of the Indian Penal Code was added after the statement of one Murlidhar Sahebrao Mule was recorded on 07/07/2019 i.e. after two months of the incident.

6. After perusal of the charge-sheet and the application, it can be seen that, no explanation has been offered by the prosecution for recording the statement of Murlidhar Sahebrao Mule after two months of the incident. Even in the statement, the witness is not stating anything which prevented him from informing the incident immediately to the Police or approaching the Police Personally immediately after the incident.

7. On the other hand, learned APP, opposed the present application on the ground that, the statement of the said witness is sufficient to show that Section 395 of the Indian Penal Code has rightly been invoked in this case. He, therefore, submits that as the offence is serious, this Court may not grant bail.

8. The applicant is in jail from last three years and three months. Considering the evidence collected by the prosecution for invocation of Section 395 of the Indian Penal Code and the delay of two months recording the statement of witness, *prima-facie*, it creates doubts about its veracity. As far as the other offences are concerned, the applicant was already released on bail on 03/07/2019 and after invocation of Section 395 of Code of Civil Procedure, he was arrested.

9. In addition to this, all the co-accused have already been released on bail and as far as the applicant is concerned, the only difference is that Gas-cutter and Gas-Welding Machine was recovered from the applicant. In the circumstances, I am of the opinion that, the applicant is entitled for grant of bail. Accordingly, I pass the following order:

- a) The criminal application is **allowed**.
- b) It is directed that in connection with Crime No. 174/2019, registered with Police Station Mangrulpir, District Washim for the offence punishable under Sections 120B, 342, 380, 395, 427, 506B read with Section 34 of the Indian Penal Code, 1860, the applicant shall be released on bail on furnishing P.R. Bond of Rs.20,000/- with one solvent surety in the like amount.
- c) The applicant shall attend the concerned Police Station as and when his presence is required
- d) The applicant shall not tamper with the prosecution witnesses.

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

[ANIL S. KILOR, J.]