

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

CRIMINAL APPLICATION (BA) NO.1105 OF 2022

Miss. Gayatri D/o Anil Khurje Vs. State of Maharashtra, through PSO, PS
Yashodhara Nagar, Nagpur

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions Court's or Judge's orders.
and Registrar's Orders.

Shri S.M. Bhangde, Advocate for applicant.

Shri A.S. Ashirgade, APP for non-applicant/respondent.

CORAM : G.A. SANAP, J.

DATE : OCTOBER 11, 2022.

The applicant is accused No.6 in Crime No.454/2022 registered at Police Station, Yashodhara Nagar, Nagpur for the offences punishable under Sections 302, 364, 201, 120B read with Section 34 of the Indian Penal Code.

2. It is the case of the prosecution that this accused along with four accused persons hatched the conspiracy to eliminate the deceased. According to the prosecution, the applicant suspected that the deceased had played black magic with her and as a result thereof she was suffering from skin disease. The applicant with the remaining accused took the deceased to one farmhouse and there he was killed. It is the case of the applicant that she has not committed the crime. There is no evidence to establish her complicity in the commission of the crime. The applicant has been arrested on the basis of the

suspicion and the statements of the co-accused. According to the applicant, the investigation has been almost completed, her detention is not necessary and warranted for custodial interrogation. It is further submitted that the applicant is a woman and therefore she deserves leniency.

3. The learned Additional Public Prosecutor filed reply and opposed the application. It is contended that there is corroborative evidence to establish the complicity of the applicant in commission of the crime. The learned Additional Public Prosecutor submitted that if the applicant is enlarged on bail, the possibility of pressurizing the witnesses and tampering with the prosecution evidence cannot be ruled out.

4. I have heard the learned Advocate for the applicant and learned Additional Public Prosecutor for the non-applicant/State. Perused the record and proceedings and case diary produced before the Court by the learned Additional Public Prosecutor.

5. It is seen from perusal of the *post mortem* report that the medical officer has not recorded the specific cause of death. The opinion as to cause of death has been reserved subject to the viscera report. The learned Additional Public Prosecutor on the basis of the case diary was not able to state whether the diatom test was conducted or not.

6. Be that as it may, the perusal of the first information report would show that this accused was not specifically named in the same. The learned Additional Public Prosecutor pointed out the statements of some of witnesses, who have seen the applicant with remaining accused at the farmhouse where murder was allegedly committed.

7. The investigation is in progress. As on today, except the statement of the co-accused there is no other material to establish the role of the applicant. The applicant is woman. She was arrested on 29.07.2022. The charge-sheet has not been filed from the registration of the crime i.e. 23.07.2022. The applicant was not initially named in the first information report. The material on record at this stage cannot be said to be sufficient to warrant further detention. In the facts and circumstances and particularly the fact that the applicant is a woman, a case has been made out to exercise the discretion in her favour.

8. The main ground of opposition at the behest of the State is that if she is enlarged on bail, the possibility of tampering with the prosecution evidence and threatening the witnesses cannot be ruled out. The learned Advocate appearing for the applicant submitted that apprehension is not well founded. It can be taken care of by imposing appropriate conditions.

9. In the facts and circumstances, I am of the view that on the basis of such apprehension the substantive relief, which the applicant is entitled cannot be denied. The apprehension can be taken care of by imposing appropriate conditions. Hence, I pass the following orders:

ORDER

- i. The criminal application is allowed.
- ii. The applicant (accused No.6)– Miss. Gayatri D/o Anil Khurge, be released on bail in connection with Crime No.454/2022 registered at Police Station, Yashodhara Nagar, Nagpur, on her furnishing PR bond in the sum of Rs.50,000/- with one surety in the like amount.
- iii. The applicant/accused no.6 shall not tamper with the prosecution evidence and she shall not threaten or pressurize the prosecution witnesses in any manner.
- iv. The applicant/accused no.6 shall attend the Police Station, Yashodhara Nagar, Nagpur, where the crime is registered, on every Monday and Saturday between 03:00 pm and 07:00 pm, till filing of the charge-sheet.

With these, the application stands **disposed of**.

JUDGE

Wagh