

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

CRIMINAL APPLICATION (ABA) NO.810 OF 2022

Om S/o Arun Bhatukale .Vs. State of Maharashtra, through P.S.O., P.S. Digras, Tq.
Digras, Dist. Yavatmal

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, Advocate for the applicant.

Shri V.A. Thakare, A.P.P. for the non-applicant/State.

CORAM : ANIL S. KILOR, J.

DATED : 29/11/2022

1. Heard.
2. The applicant is seeking pre-arrest bail in Crime No.744 of 2022, registered with Police Station: Digras, District: Yavatmal, for the offences punishable under Sections 302 and 120-B read with Section 34 of the Indian Penal Code(IPC).
3. In this case, the offence was registered under Sections 302 and 120-B read with Section 34 of the IPC. The facts are that the dead body was found in the river and thereafter, it is referred for post mortem. The viscera was preserved and on receipt of its report, no poison was found.
4. Therefore, though the incident took place on 16.08.2020 no offence was registered initially.

5. Thereafter, one of the relatives of the deceased, he filed proceedings before the learned Magistrate under Section 156(3) of the Code Criminal Procedure thereupon, the present FIR is registered.

6. The learned APP states that the investigation is going on and for the same custody of the applicant will require.

7. Considering the date of incident, the period lapse in between coupled with the reports as regards viscera, *prima facie* at this stage it can be said that, there is no incriminating material against the applicant to deny bail to the applicant.

8. However, as the investigation is going on, liberty can be granted to the State to apply for cancellation of bail and for seeking custody of the applicant in case, the State comes across any incriminating material against the applicant. Accordingly, I pass the following order:

- a) The criminal application is **allowed**.
- b) It is directed that in the event of arrest of the applicant in Crime No.744 of 2022, registered with Police Station: Digras, District: Yavatmal, for the offences punishable under Sections 302

and 120-B read with Section 34 of the Indian Penal Code, the applicant shall be released on bail on furnishing P.R. Bond of Rs.15,000/- with one solvent surety in the like amount.

- c) The applicant shall attend the concerned Police Station as and when his present is required.
- d) Liberty is granted to the State to apply for cancellation of bail if so desires in case the State comes across any incriminating material against the applicant.

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

JUDGE