

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

CRIMINAL APPLICATION (BA) NO.113 OF 2023

Gaurav Rambhau Raut Vs. State of Maharashtra

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

Court's or Judge's orders.

Shri V.D. Darne, Advocate for applicant.

Shri S.S.Doifode, APP for non-applicant/State.

CORAM : ANIL L. PANSARE, J.

DATE : MARCH 21, 2023.

This is an application under Section 439 of the Code of Criminal Procedure.

2. The applicant has been arrested on 20.11.2021 in Crime No.1286/2021 registered with Police Station, Digras, District Yavatmal for the offence punishable under Sections 302, 364, 120(B), 404, 201 read with Section 34 of the Indian Penal Code (for short, 'IPC').

3. Having heard both sides and having gone through the record, there are five accused persons namely; accused no.1 – Gaurvan Raut (present applicant), accused no.2 – Ujjwal Nagrale, accused no.3 Abhijit Mhatre, accused no.4 – Anil Kawale and accused no.5 – Banti alias Vishal Gadekar.

4. The prosecution case is that the wife of accused no.4 has been eliminated for the reason that accused no.4 and his wife have jointly own an immovable property at Pune and that the accused no.4 intended to grab the property and therefore he eliminated his wife. The accused no.4 was addicted to liquor

and therefore his wife was not residing with him. She left the house some times 5 years back and was residing with her parents. On 10.11.2021, the victim left the house but did not return. On 16.11.2021 at about 12 noon, her body was found within the limit of village Savanga. Thereafter, report was lodged by brother of the deceased.

5. The case is based on circumstantial evidence. The incriminating material against applicant, according to learned APP, is that a gold chain with pendent belonging to the deceased has been recovered at his instance. The another incriminating material is that an amount of ₹25,000/- has been deposited in his account one day prior to the incident. The witness, who has deposited the amount, has stated that the amount has been deposited at the instructions of accused no.4. The requirement of amount is said to be urgent work of the applicant. Thus, this transaction cannot be taken aid of to contend that accused no.4 has hired applicant for the job, particularly when there are no criminal antecedent against the applicant.

6. Learned counsel for the applicant has rightly contended that these cannot be the circumstances connecting the applicant with the crime. The post mortem report indicates that the cause of death is 'asphyxia due to strangulation'. It is not known as to who has strangled the victim. It is nobody's case that the applicant was seen with the victim on or prior to her death.

7. In the circumstances merely because the gold chain with pendent has been recovered at the instance of the applicant, by itself cannot be reason to believe that he has committed the crime, particularly, when the case of prosecution is that the wife has been eliminated to grab the immovable property. Nonetheless it will be matter of trial and prosecution will get opportunity to connect the applicant with the crime on the basis of aforesaid reasons but for the purpose of releasing the applicant on bail, to my mind, the evidence is not sufficient to continue his incarceration.

8. In the circumstances and considering the nature of allegations and evidence collected against the applicant so also the presumption that the person accused of commission of a crime is considered innocent until proven guilty, in my considered view no fruitful purpose will be served by keeping the applicant behind bars. The interest of the prosecution can be protected by putting the applicant to appropriate terms.

9. The observations made in this order are *prima facie* in nature and are made for deciding the present application only. The learned trial Judge shall not get influenced with the above observations.

10. Resultantly, the following order is passed.

ORDER

- (i) The application is allowed.
- (ii) Applicant- Gaurav Rambhau Raut, be released on bail, in Crime No.1286/2021 registered with Police Station, Digras, District Yavatmal for the offence punishable under

Sections 302, 364, 120(B), 404, 201 read with Section 34 of the Indian Penal Code, on he furnishing PR. Bond in the sum of ₹50,000/- with one or two sureties in the like amount.

(iii) The applicant shall, at the time of execution of bond, furnish his address and telephone/mobile number(s) to the Investigating Officer and the Court concerned and shall not change the same till the final disposal of the case.

(iv) The applicant shall regularly attend the Court and cooperate the learned trial Court to complete the trial for the above offences. The applicant shall not seek adjournments, except under extreme circumstances to the satisfaction of the trial Court.

(v) The applicant shall not directly or indirectly make any inducement, threat or promise to any witness acquainted with the facts of the case so as to dissuade him/her from disclosing such facts to the Court or any Police Officer.

(vi) The applicant shall maintain law and order.

(vii) In case of breach of any conditions, the learned trial court is at liberty to cancel the bail after giving opportunity of hearing to both the sides.

The application is disposed of in the above terms.

JUDGE

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