

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

CRIMINAL APPLICATION (BA) NO.187 OF 2023

Pratik s/o Pravin Kindarle 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 R.M. Daga with Shri A.S. Band, Advocates for applicant.
Shri S.M. Ghodeswar, 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 11.01.2023 in Crime No.18/2023 registered with Police Station, Hingna, Nagpur for the offence punishable under Section 302, 143, 147, 148, 149, 504, 212, 109 read with section 34 of the Indian Penal Code (for short, 'IPC') and under Section 135 of the Maharashtra Police Act.

3. Briefly stated the case of the prosecution is that prime accused Dipak alias Khatya has committed murder of one Avinash Ghumde by means of fire arm. The reason is that this Avinash he has suspected the character of the wife of Dipak. Dipak got annoyed when Avinash had been to Dipak's house and killed him. So far as the applicant is concerned, he has been charged with offence punishable under Section 212 of the IPC, which relates to harbouring the offender. The applicant

has allegedly arranged a Ciaz car and helped Dipak to flee away to Madhya Pradesh.

4. When enquired as to on what basis could it be said that the applicant had reasons to believe that Dipak has committed the crime, the learned APP submits that the investigation is in progress but till now no cogent evidence could be collected on this point. However, he submits that act of arranging Ciaz car and stay arrangement in hotel at Madhya Pradesh is suggestive of the fact that applicant had knowledge. The criminal jurisprudence, however, requires proof and not the suspicion to convict the offender. Hopefully the investigating agency will be able to collect the evidence in this regard.

5. At this stage, the investigation on the point of role played by the applicant appears to have been completed. The Ciaz car has been recovered. Nothing is to be recovered from the applicant or at his instance.

6. On enquiry of antecedence, the learned advocate for the applicant, on instructions, submits that there are no criminal antecedence against the applicant. The applicant is staying since long at the address given in the application.

7. In the circumstances and considering the peculiar facts of the case and nature of evidence against the applicant, as 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.

8. 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.

9. Resultantly, the following order is passed.

ORDER

- (i) The application is allowed.
- (ii) Applicant- Pratik s/o Pravin Kindarle, be released on bail, in Crime No.18/2023 registered with Police Station, Hingna, Nagpur for the offence punishable under Section 302, 143, 147, 148, 149, 504, 212, 109 read with section 34 of the Indian Penal Code and under Section 135 of the Maharashtra Police Act, on he furnishing P.R. Bond in the sum of ₹25,000/- with one or two sureties in the like amount.
- (iii) The applicant shall attend the Police Station, Hingna, Nagpur on alternate Sunday between 2 to 4 pm, till filing of the charge-sheet and the charge-sheet, if filed, 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.
- (iv) 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.

- (v) The applicant shall maintain law and order.
- (vi) 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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