



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

CRIMINAL APPLICATION (BA) NO. 243/2023

Laxman Gorakh Pimpale V/s State of Maharashtra

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

Court's or Judge's Order

Mr. S.V.Sirpurkar, counsel for the applicant.

Mr. Suraj Hulke, APP for the non-applicant/State.

CORAM : URMILA JOSHI-PHALKE, J.

DATED : 20/12/2023.

1. By this application, the applicant is seeking bail under Section 439 of the Code of Criminal Procedure, 1973 in connection with the Crime No. 271/2022 registered with Police Station Loni, Tah. Nandgaon Khd., District Amravati for the offence punishable under sections 302, 201, 120(B) read with Section 34 of the Indian Penal Code, 1860.

2. The applicant is arrested on 18/09/2022 and since then he is in jail.

3. The accusation against the present applicant is that on 15/09/2022 the informant Imran Khan Mohammad Khan resident of Mominpura, Badnera had received a call from his friend Raman from Amravati, who informed him that two Labour are spraying insecticide in his field, and also informed him that two people had been murdered in Gadbad Shah Dargah, and

their bodies were lying there. Therefore, informant immediately called his father Mohammad Khan Mustafa Khan, who is the trustee of the said Dargah, they immediately went at the spot and saw the dead bodies having injuries on their person. Both the dead bodies were lying separately on the mattress. The alleged incident took place in the intervening night of 14/09/2022 to 15/09/2022, on the basis of said report, the Police have registered the crime against the unknown person.

4. During the investigation, it reveals to the investigating agency that present applicant was initially working in the Dargah and was taking money from the persons visiting in the Dargah, and therefore, he is removed from the work. Therefore, he got annoyed against the deceased Anwar Beg Agbar Beg. With that motive, he has committed the murder of Anwar Beg Agbar Beg and Sheikh Taufiq Abdul Rafiq.

5. The learned counsel Mr. S.V.Sirpurkar for the applicant submitted that entire case is based on the circumstantial evidence. The circumstances which according to the prosecution against the present applicant is the motive that one of the deceased namely Anwar Beg has removed the present applicant from the job. The blood-stained clothes are recovered at the instance of the present applicant. The statements of the

witnesses have disclosed that they have witnessed the present applicant nearby field of the spot of incident.

6. He submitted that statement of these witness are recorded after ten days. These witnesses have not disclosed the alleged incident to the investigating agency, though the Police have visited the alleged spot of the incident, immediately after the incident. No explanation is put-forth by the prosecution for recording of the detailed statement.

7. He further submitted that now the investigation is completed charge-sheet is filed. There is no direct evidence against the present applicant to connect him with the alleged offence, considering the same, he be released on bail.

8. The learned APP strongly opposed the present application on the ground that though, the case is based on circumstantial evidence, there is a strong motive for the present applicant to commit the offence. The CCTV footage shows that one person was seen in the CCTV, switching off the electric button in the intervening night, thereafter the alleged incident has taken place. At the instance of the present applicant, the blood stains clothes are recovered and the FSL Report is yet to be received.

9. He further submitted that the statements of the witnesses recorded during the investigation shows that the present applicant was witnessed in the nearby field

which is near to the spot of incident. There is a disclosure prior to the incident by the present applicant to one of the witness showing his intention to eliminate the deceased. Thus, there is a prima facie material against the present applicant to connect him with the alleged offence.

10. After hearing the learned counsel for the applicant and learned APP for the State. Perused the investigation papers, it reveals that the alleged incident has taken place during the intervening night of 14/09/2022 and 15/09/2022. The informant came to know about the said incident from one of his friend and thereafter, he visited the alleged spot of incident.

11. During the investigation, the investigating officer has verified from the CCTV Footage wherein they have only witness that one person was switching off the light. The applicant was arrested and at his instance, some clothes are recovered. It is apparent from the investigation papers that initially on 21/09/2022 the investigating officer has visited the agricultural field of one Meshram, as the co-accused Deepak Pana Pawar made a memorandum statement and seized some clothes having stains like blood and one knife from the same place subsequently, the clothes of the present accused are recovered. It is apparent that the investigating agency has shown that these clothes were recovered at the

instance of the memorandum statement of the present applicant, in fact, earlier to the memorandum statement of the present applicant, the investigating officer has visited the alleged spot and recovered some articles at the instance of the co-accused. Thus, the spot from which the recovery was shown was already known to the investigating agency and therefore, the Panchanama which shown to be drawn in view of the memorandum statement appears to be farce. As the investigating officer has already visited the said place, and it is difficult to accept that, they were not aware about the spot from which the alleged recovery was made.

12. After going through the various statements, only circumstance which is brought on record is that some of the witnesses have witnessed the present applicant in the agricultural field which is nearby to the spot of incident. The statement of the field owner is also recorded who only narrated about the presence of the co-accused and not the present applicant.

13. It is pertinent to note that, the prosecution placed reliance on the statements of Shabbir Kha Kureshi Nawab Kha Kureshi, who witnessed the present applicant in nearby agricultural field but his statement is recorded on 24/09/2022 i.e. after 10 to 11 days. He has also not disclosed the said fact prior to that, though investigating officer has visited the village and alleged spot of

incident. The prosecution further relied upon the statement of Anwar Beg Jafar Beg, his statement is also recorded after 10 to 11 days. Admittedly, at the time of considering bail application, the complete evaluation of the evidence collected by the investigating officer is not required. However, considering the nature of the material collected by the investigating officer, it is necessary to refer the same to ascertain the material collected by the investigating agency during the investigation.

14. After going through the statements and the entire material collected by the Investigating Officer, the chain of the circumstances appears to be incomplete. Considering the investigation is completed and charge-sheet is filed, no purpose will be served by keeping the present applicant behind bar.

15. In view of that, the application deserves to be allowed by imposing certain conditions. Accordingly, I proceed to pass following order:

- a. The criminal application is **allowed**.
- b. The applicant- Laxman Gorakh Pimpale, in connection with Crime No. 271/2022 registered with Police Station Loni, Tah. Nandgaon Khd., District Amravati for the offence punishable under sections 302, 201, 120(B) read with Section 34 of the

Indian Penal Code, 1860, be released on bail on furnishing P.R. Bond in the sum of Rs.25,000/- with one surety in the like amount.

- c. The applicant shall attend the concerned Police Station once in a month on Sunday between 10.00 a.m. to 01.00 p.m. till culmination of the trial.
- d. The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case, as also shall not tamper with the prosecution evidence.
- e. The trial Court shall not influence by the observations made by this Court which is only for the purpose of grant of bail.

The criminal application stands disposed of.

[URMILA JOSHI-PHALKE, J]