

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

CRIMINAL APPLICATION (BA) NO. 284/2023

Rohit Shankar Nagpure .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

Mr. R. H. Rawlani, Advocate for applicant.
Mr. S. S. Doifode, A.P.P. for non applicant-State.

CORAM : ANIL L. PANSARE, J.

DATE : APRIL 10, 2023.

This is an application under Section 439 of the Code of Criminal, 1973. The applicant has been arrested on 30.08.2022 in Crime No.320/2022, registered with Police Station, Ranapratapnagar, Nagpur District Nagpur for the offences punishable under Sections 302, 120-B and 201 of the Indian Penal Code, 1860.

2. Briefly stated, the prosecution case is that body of Bhojraj Domde was found at Hingna T-Point, Nagpur. Elder brother of deceased has lodged First Information Report against unknown person.

3. During the course of investigation, it has been revealed that accused Sunil was present with his wife at the spot. He admitted of illicit relationship with the wife of the deceased. The deceased objected to the relationship. Accused no.1 gave Rs.50,000/- to the accused no.2 and hired him. Thus, the accused no.2 is a contract killer. Then the accused no.2 has engaged accused no.3 i.e. present applicant, who is cousin of

accused no.2. According to the prosecution, these accused have hatched conspiracy to eliminate the deceased and have successfully done so. The accused have assaulted the deceased by means of hammer, stainless steel blade and sickle. These articles are said to have been recovered at the instance of accused no.2 and not the applicant.

4. On the point of evidence, the prosecution is relying upon the CCTV footage which indicates that accused no.2 and applicant were found together near the spot of incident at the relevant time. However, there is no direct evidence of assault at the hands of the applicant. Learned A.P.P. submits that the accused no.2 has hired accused no.3 and paid Rs.30,000/-. However, when inquired, nothing has been recovered from the applicant. That apart, except for custodial interrogation, there appears no evidence against the applicant of his involvement in the crime.

5. The prosecution claims that the case is based on the circumstantial evidence. The prosecution will have an opportunity to put forth its version during trial. However, at this stage, considering the nature of evidence the benefit will have to be extended to the applicant.

6. When inquired of antecedents, learned counsel for the applicant submits that there are no criminal antecedents. The applicant is residing at the given address since long. The charge-sheet has been filed. The charge is not yet framed. It will take time to commence and conclude the trial.

7. In view of above and considering the peculiar facts of the case and the nature of evidence against the applicant coupled with the presumption that the person accused of a crime is considered to be innocent until proven guilty, I am of the considered view that no fruitful purpose will be served by keeping the applicant in jail. 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 trial Court shall not get influenced by the observations made in this order.

9. Resultantly, following order is passed.

ORDER

(i) The application is allowed.

(ii) Applicant – Rohit Shankar Nagpure, be released on bail in Crime No.320/2022, registered with Police Station, Ranapratapnagar, Nagpur District Nagpur for the offences punishable under Sections 302, 120-B and 201 of the Indian Penal Code, 1860 on he executing PR. Bond in the sum of Rs.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 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 regularly attend the court and co-operate the learned trial court to complete the trial for the above offence. The applicant shall not seek adjournments, except under extreme circumstances to the satisfaction of the trial Court.

(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.

(Anil L. Pansare, J.)

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