

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

CRIMINAL APPLICATION (BA) NO.354 OF 2023

Vikas alias Israr Sheikh s/o Istiyak Sheikh

Vs.

State of Maharashtra, through PSO, PS, Talegaon (Shamjipant), Dist. Wardha

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

Court's or Judge's orders.

Shri M.V. Rai, Advocate for applicant.

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

CORAM : ANIL L. PANSARE, J.

DATE : APRIL 25, 2023.

This is an application under Section 439 of the Code of Criminal Procedure (for short, 'Code'). The applicant has been arrested on 10.02.2022 in Crime No.493/2022 registered with Police Station, Talegaon, District Wardha for the offences punishable under Sections 302, 392, 201 read with Section 34 of the Indian Penal Code (for short, 'IPC').

2. The FIR has been lodged by one Jasvirsingh Varisingh Saini, owner of the truck bearing registration no.MH40N3210. The informant is involved in the transport business. He states that on 07.10.2022 he got an order of transportation of iron rods from Nagpur to Akola. The driver of the truck was Chakradharsingh Ramsingh (deceased), who was working with the informant for last 25 years. The driver proceeded with the truck containing iron rods from Nagpur to Akola. On 08.10.2022, at about 5.00 pm, the informant received a phone call from Parshioni Police

Station stating that his truck bearing no.MH40N3210 is stationed at Parshioni. The informant attempted to contact his driver on phone but could not. The informant reached the spot and came to know that the applicant and co-accused have killed his driver in attempt to stole the iron rods and the truck.

3. My attention has been invited by the learned APP to the statement dated 19.10.2022 made by the Police Sub Inspector Dnyanoba Palnate. He was on patrolling duty. In the intervening night of 07.10.2022 and 08.10.2022, he received a message that one truck is stationed on Karbhad – Itgaon road and that two persons were standing near the truck and their activities are suspicious and that they are all set to sell the articles lying in the truck. The witness along with panchas rushed to the spot. They found that co-accused was sitting in the truck. He was taken into custody and upon enquiry he informed the police officer that he alongwith applicant have killed Chakradharsingh and have stolen truck along with iron rods.

4. The learned counsel for the applicant has rightly pointed out that except for the statement of co-accused there is absolutely no evidence against the applicant.

5. The learned APP however submits that one scarf has been recovered at the instance of the applicant but he could not point out any link between the scarf and the crime.

6. Put altogether the evidence connecting applicant with

the crime is weak. The charge-sheet has been filed. The charge is not yet framed. It will take time to commence and conclude the trial. On enquiry of antecedence, the learned senior counsel for the applicant submits that there are no criminal antecedence against the applicant.

7. In view of above and considering 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* 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 – Vikas alias Israr Sheikh s/o Istiyak Sheikh, Crime No.493/2022 registered with Police Station, Talegaon, District Wardha for the offences punishable under Sections 302, 392, 201 read with Section 34 of the Indian Penal Code, on he executing P.R. 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 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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