



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

CRIMINAL APPLICATION (BA) NO. 356 OF 2023

Pravin s/o Bhaiyalal Neware

Vs.

State of Maharashtra, Thru. PSO Davaniwada, District – Gondia

Office notes, Office Memoranda of Coram,
appearances, Court's orders or directions
and Registrar's orders.

Court's or Judge's Orders.

Mr. V.S. Mishra, Advocate for applicant.

Mr. Ganesh Umale, APP for non-applicant/State.

CORAM : G.A. SANAP, J.

DATE : OCTOBER 19, 2023.

Heard.

2. The applicant/accused, arrested in Crime No.258/2022, registered at Davaniwada Police Station, District – Gondia, for the offence punishable under Section 302 of the Indian Penal Code, has made this application for bail under Section 439 of the Code of Criminal Procedure.

3. Learned Advocate for the accused submitted that the accused was arrested on 01.10.2022 and since then he has been languishing in jail. Learned Advocate submitted that charge-sheet has been filed after thorough investigation. Learned Advocate submitted that considering the nature of the crime further incarceration

of the accused is not warranted. Learned Advocate submitted that 15 days prior to this incident, the accused had lost his young son and on the date of the incident, he was coming back to his home after performing the rituals. Learned Advocate submitted that while considering the bail application his state of mind on the date of the incident is, therefore, required to be considered. Learned Advocate submitted that the accused has no criminal antecedents. He is ready to abide by the conditions that may be imposed by the Court.

4. Learned APP submitted that the previous enmity between the accused and deceased is the motive for commission of a crime. Learned APP took me through the statements of some of the eye witnesses and submitted that multiple dash given by the accused to the deceased reflects upon his intention to commit the murder of the deceased. Learned APP submitted that if the accused is released on bail then he may pressurize the eye witnesses and tamper with the prosecution evidence.

5. At the outset, it is necessary to mention that the accused and deceased are neighbors. The son of the accused had died 15 days prior to the date of this incident. There is an evidence to indicate that on the date of the incident, the accused was returning back after attending the rituals of his son to his house in the Tata Sumo Car of

his friend. The charge-sheet has been filed. Initially, the offence was registered under Section 307. It was converted to Section 302 of the Indian Penal Code after death of the deceased. The question is whether in the above factual background the case in question is a fit case to exercise discretion and enlarge the accused on bail.

6. In my view considering the facts and circumstances, obtained on record it would be just and proper to exercise the discretion in favour of the accused and enlarge him on bail. As far as the apprehension put forth by the learned APP is concerned it can be taken care by imposing appropriate conditions. As such, I proceed to pass the following order:

ORDER

(i) The criminal application is allowed.

(ii) Applicant- Pravin s/o Bhaiyalal Neware be released on bail in Crime No.258 of 2022, registered with Police Station Davaniwada, District: Gondia, for the offences punishable under Sections 302, 307 of the Indian Penal Code, on his furnishing P.R. Bond in the sum of Rs. 25,000/- (Rupees Twenty Five Thousand only) with one surety in the like amount.

(iii) The applicant shall not in any way tamper with the prosecution evidence.

(iv) The applicant shall not pressurize or threaten the prosecution witnesses.

(v) The applicant shall co-operate the trial Judge for conducting the trial expeditiously.

(vi) The accused shall not enter the Gondia District, except for the purpose of attending the case at Sessions Court at Gondia, till the decision of the trial.

7. The application stands disposed of.

(G.A. SANAP, J.)