

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

**CRIMINAL APPLICATION (BA) NO.362/2023
Gautam s/o Yogesh Bhandare**

..VS..

State of Maharashtra, through PSO PS Khapa, Nagpur

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

Court's or Judge's Order

.....
Shri G.D.Dani, Counsel for the Applicant.
Shri I.J.Damle, Additional Public Prosecutor for the State.

CORAM : URMILA JOSHI-PHALKE, J.

CLOSED ON : 08/06/2023

PRONOUNCED ON : 13/06/2023

1. By this application under Section 439 of the Code of Criminal Procedure, the applicant seeks bail in connection with Crime No.292/2022 registered with Khapa Police Station, Nagpur for offence punishable under Section 302 read with Section 34 of the Indian Penal Code.

2. The applicant is arrested on 13.9.2022 and since then he is in jail.

3. The crime is registered on the basis of report lodged by one Niranjana Patil on allegations that on 29.8.2022 he was on duty as a security guard at Kocchi Barrack. Deceased Siddharth Patil was also serving as security guard. On 29.8.2022, at about 8:00 pm, he could not find the deceased in his barrack and, therefore, he gave him a call. At the relevant

time, he heard shouts and, therefore, he went near Neem Tree, near Kocchi Barrack and found the deceased in an injured condition. He immediately shifted the deceased in the hospital. However, succumbed to the injuries. The informant has lodged the report against an unknown person. On the basis of the said report, the crime was registered against the unknown person. During investigation, the investigating officer has recorded relevant statements and it revealed to the investigating officer that one witness has seen the applicant along with other co-accused proceeding towards dam prior to the incident and, therefore, the applicant is arrested.

4. As per the contentions of the applicant, merely on suspicion, he is arrested. There is no direct or circumstantial evidence to connect him with the alleged offence. Now, investigation is completed and chargesheet is filed. His further custodial interrogation is not required and, therefore, he be released on bail.

5. The application is strongly opposed by the State on the ground that prior to the incident, the applicant was seen proceeding towards spot of the incident. Thus, *prima facie* involvement is revealed. If the applicant is released on bail, he will tamper with the prosecution evidence.

6. Heard learned counsel Shri G.D.Dani for the applicant and learned Additional Public Prosecutor Shri I.J.Damle for the State and perused the entire investigation papers.

7. From the investigation papers it reveals that the report is lodged against an unknown person. Except statement of Jairaj Sahare, who stated that the applicant was seen proceeding towards dam, no other incriminating material is on record to connect the applicant with the alleged offence. It appears that the applicant is arrested merely on the basis of the said statement.

8. Now, investigation is completed and chargesheet is filed. Further custodial interrogation is not at all required. General apprehension is raised by the prosecution that the applicant will tamper the prosecution evidence.

9. In view of the above discussion and in view of the apprehension that the applicant will tamper the prosecution evidence, the application deserves to be allowed, however by imposing certain conditions. Hence, I proceed to pass following order:

ORDER

(1) The application is **allowed**.

(2) The applicant is released on bail, in connection with Crime No.292/2022 registered with Khapa Police Station, Nagpur for offence punishable under Section 302 read with Section 34 of the Indian Penal Code, on his executing a P.R.Bond in the sum of Rs.25000/- with one solvent surety of the like amount.

(3) The applicant shall furnish his cell phone, address of residence where he will reside along with address proof, and names of two nearest relatives with their address's proof to the investigating officer investigating into the crime in question.

(4) The applicant shall not induce or threat or promise to any of witnesses connected with the crime in question and shall not tamper the prosecution evidence.

With this, the criminal application stands disposed of.

(URMILA JOSHI-PHALKE, J.)

!! BrWankhede !!