

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

CRIMINAL APPLICATION (BA) NO. 417/2023

MOHIT @ P.K. MAHADEO MOHURLE
VS
THE STATE OF MAH. THR. PSO PS PADOLI TQ. DIST.CHANDRAPUR

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

Court's or Judge's Order

Mr A. Hunge, counsel for the applicant.

Mr S.M. Ghodeswar, APP for the non-applicant.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 04/07/2023.

1. Heard.
2. The present application is filed by the applicant for grant of bail under Section 439 of the Code of Criminal Procedure, 1973 in connection with Crime No. 72/2022 registered at Police Station Padoli, Tq and District Chandrapur for the offences punishable under Sections 302, 201, 120(B) and 34 of the Indian Penal Code. The applicant is arrested on 10/06/2022 since then he is in jail.
3. The crime is registered on the basis of a report lodged by informant Mahadeo Shivram Ghive who is the uncle of the deceased. The father of the deceased Pravin alleging that on 07/06/2022 he received a phone call from the accused No.1 Ajay Arjunker and

accused No.2 Ajit Madavi that they have called the deceased near the school to repay the amount. The deceased went out of the house and was not returned and his two wheeler was found abandoned on Morwa Airport Road. The body of the deceased was found on 09/06/2022 and thereafter, the FIR came to be registered alleging that co-accused Ajay Arjunker and Ajit Madavi has caused the death of the deceased.

4. As per the contention of the applicant merely on the suspicion that he was seen along with co-accused he is implicated in the alleged offence. He has implicated in the alleged incident. In fact, no direct evidence is available with the prosecution to connect him with the alleged offence. Now, the investigation is completed and charge-sheet is filed. The co-accused who has given extra-judicial confession is already been released on bail by this Court. Considering the role attributed to the present applicant and the investigation papers, no prima-facie case is made out against the present applicant and hence he be released on bail.

5. The said application has strongly opposed by the State on the ground that the Investigating Officer has recorded the relevant statements of the witnesses which show that the vehicle of the deceased was kept by the present applicant and other co-accused on Moravi

Airport Road. The blood stains are found on the said motorcycle. The confessional statement of the co-accused also shows the involvement of the present applicant. Thus there is prima-facie material to connect the present applicant with the alleged offence and prays for rejection of the bail.

6. Heard Mr Amol G. Hunge, learned counsel for the applicant, he reiterated the contention and submitted that even the circumstances of which the prosecution has placed reliance are taken into consideration are not sufficient to prove the prima-facie material case against the present applicant. The only material against the present applicant is the statement of the co-accused and the statement of the witnesses, which are to the effect that the motorcycle of the deceased kept by the present applicant on the Airport Road. But these circumstances are not sufficient to connect the present applicant with the alleged offence. The co-accused who has given an extra-judicial confession has already been released on bail. The case of the present applicant is on better footing. Considering the role of the present applicant, he is entitled for grant of bail on the ground of parity.

7. Learned APP has strongly opposed the application and contended that the circumstances that

the motorcycle was kept by the present applicant along with other co-accused on Airport Road. The blood stains are found on the said motorcycle, confessional statement of the co-accused are the circumstances connecting the present applicant with the alleged offence. Hence, the criminal bail application deserves to be rejected.

8. After going through the entire investigation papers, admittedly the name of the present applicant is not mentioned in the FIR, as far as the confessional statement of the co-accused is concerned, it is not admissible in the evidence. From the statements of the witnesses, it reveals that the present applicant has taken custody of the motorcycle of the deceased which was kept behind the school and the said motorcycle was then kept on the Morva Airport Road. There were blood stains on the said motorcycle, except for this material, no other circumstances, nor the record to connect the present applicant with the alleged offence. Thus only admissible evidence is the statement of the witnesses which shows that the present applicant has obtained custody of the vehicle of the deceased and kept it on Morva Airport road.

9. Prima-facie material is not sufficient to connect the present applicant with the crime. The charge-sheet

is already filed and the charges are yet to be framed. The trial will take its own time to commence and conclude.

10. In the said circumstances, considering the nature of the allegation against the present applicant, no criminal antecedents against the present applicant. No purpose will be served by keeping the present applicant behind the bar. In the above circumstances the application deserves to be allowed by imposing certain conditions. Accordingly, I proceed to pass following order.

- a) Criminal Application is allowed.
- b) The applicant is released on bail in connection with Crime No. 72/2022 registered at Police Station Padoli, Tq and District Chandrapur for the offences punishable under Sections 302, 201, 120(B) and 34 of the Indian Penal Code on executing P.R. Bond of Rs. 25,000/- with one solvent surety of the like amount.
- c) The applicant shall attend the Padoli Police Station, Tq. & District Chandrapur every week on Monday between 10.00 a.m. to 01.00 p.m. till the conclusion of the trial.

- d) The applicant shall furnish his cell phone number and address along with address proof.
- e) 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.

JUDGE