



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

CRIMINAL APPLICATION (BA) NO. 852/2023

Lokeshkumar Jogitram Sahu and another V/s State of Maharashtra

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

Court's or Judge's Order

Mr. I.K. Daudasare, counsel for applicants.

Mr. V.A.Thakre, APP for the non-applicant/State.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 14/12/2023.

1. By this application, the applicants are seeking bail in connection with Crime No.13/2023 registered with Police Station, Korchi, District Gadchiroli for the offences punishable under Sections 302, 364, 341, 120(B), Section 201 read with Section 34 of the Indian Penal Code, 1860. The applicants are arrested on 18/04/2023 and since then they have been behind the bars.

2. The crime is registered on the basis of a report lodged by Police Officer- Naresh Wadewale, as one dead body was found in the vicinity of Korchi Police Station, District - Gadchiroli. The accusation against the applicants is that after finding the dead body, the identification of the dead body was in question, therefore, the inquiry was conducted. During the inquiry, it reveal that on 04/01/2023, the

deceased along with his cousin's brother had been to village Chichwahi for some work. At that place, the co-accused Mukesh Yadav and 7 to 8 persons contacted him and demanded money from him, on the count that the deceased has not returned the money and forced him to sit in four wheeler vehicle bearing No. 08 AK4174 in Mahindra Bolero vehicle, and thereafter deceased never returned back.

3. During the investigation, the statements of various witnesses were recorded and revealed, that the present applicants along with the other co-accused Mukesh Yadav abducted the deceased and thereafter, the dead body of the deceased was found. The cause of death is “cardio vascular arrest and respiratory failure due to compression of brain due to heamatoma due to head injury”. On the basis of said report, the police have registered the crime against the present applicants and other co-accused.

4. The learned counsel for the applicants submitted that as far as the investigation papers are concerned, there is no direct material against the present applicants to show their involvement in the alleged offence. There is a long gap between the abduction and the finding of the dead body. Even considering the allegations as it is, it only shows that

the applicants were along with the other co-accused. There is no material to show that these applicants caused the death of the deceased. Now, the investigation is completed, charge-sheet is filed further custody of the applicants is not required, as no purpose will be served by keeping the present applicants behind the bars, and prays for grant of bail.

5. The learned APP strongly opposed the present application on the ground that, during the course of daily inquiry, the inquest panchanama of the dead body was performed. During the post-mortem examination, the cause of death was revealed as “cardio vascular arrest and respiratory failure due to compression of brain due to heamatoma due to head injury”. Thus, the death of the deceased is not natural death. The circumstantial evidence shows that the deceased was taken by the present applicants and other co-accused, and thereafter, he was not seen alive by any of the persons, and the dead body of the deceased was found in the vicinity of the Korchi Police Station, District Gadchiroli. The statements of the witnesses disclosed that the present applicants have played a vital role in the abduction of the deceased. Thus, there is a prima-facie material against the present applicants and prays for rejection of the application.

6. After hearing learned counsel for the applicants and after perusal of the investigation papers, admittedly, initially, no missing complaint was filed. Though the relatives i.e. the cousin brother of the deceased have witnessed that the deceased was taken by the co-accused and the present applicants by abducting him. However, the statements of various witnesses including Nilesh Mehtar Kachlam, Nareshkumar Shivchand Dandiya, Kamlesh Dashrath Nag, and Tarachand Shivram Bansod shows that the present applicants were along with the deceased, and the deceased was taken in the vehicle forcefully by abducting him, due to the previous dispute on account of the monetary transactions.

7. The statement of Tarachand Shivram Bansod is material to ascertain the role of the present applicants which shows, that on 04/01/2023 at about 2.00 p.m. when he was present in his house Mukesh Yadav, who is the co-accused came in front of his house in a four wheeler vehicle and called him near the vehicle. He went near the vehicle and witnessed, that along with the said co-accused Mukesh Yadav there were 7 to 8 person, and were asking, whether he knows the house of one Pardeshi Kumkar. Thereafter, they insisted into sit in their vehicle, he sat in their vehicle. In the said vehicle, one aged person was also

sitting and in his presence they were asking the said aged person regarding their money and demanding the said money and also threatened to him that they will kill him if the money is not paid. The aged person was denying to hand over the key of the vehicle. At the relevant time, the present applicants were along with the said Mukesh, who is the co-accused. The statement further shows that at some distance he was dropped by the said Mukesh Yadav and other co-accused including the present applicants.

8. Moreover, it reveals from the statement that the present applicants and other co-accused took him from the said place and thereafter, the dead body of the deceased was found on 08/01/2023. Thus, the statement of Tarachand Shivram Bansod specifically states that the deceased was along with the present applicants and other co-accused Mukesh Yadav, and in his presence, they have taken him at some place. Thereafter, the deceased was not seen alive by anybody, and the dead body of the deceased was found. Admittedly, the entire case was rested upon the circumstantial evidence. The circumstance of the last seen is supported by the witnesses who have witnessed the deceased along with the present applicants.

9. Furthermore, at this stage, there is a prima-facie material against the present applicants, to show that they have taken the deceased along with them, in furtherance of their common intention, and thereafter dead body of the deceased was found.

10. Considering the incriminating material against the present applicants, I am not inclined to allow the present application. Hence, the criminal application deserves to be rejected. Accordingly, I pass the following order:

The criminal application is **rejected**.

[URMILA JOSHI-PHALKE, J]