

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

...

CRIMINAL APPLICATION (BA) NO. 1449/2022

Sachin @ Chetan Shantaram Sonawane

.. Applicant

versus

The State of Maharashtra

Th: Its PSO PS, Ramnagar, Chandrapur

.. Respondent

.....
Mr. R.P.Joshi, Advocate for the applicant

Mr. Nitin Rode, APP for Respondent/state

.....

CORAM: ANIL L. PANSARE, J.

DATED : 18th January, 2023

PC:

Heard the learned counsel for the respective parties.

2. The applicant has filed present application under Section 439 of the Code of Criminal Procedure. He has been arrested in Crime No.543/2022 registered at Police Station Ramnagar, Chandrapur, for the offences punishable under sections 302 read with Section 120-B of the Indian Penal Code.

3. The law was set in motion by the brother of the deceased, who lodged the FIR stating therein that on 24th May 2022, his brother went out after dinner, but did not come back. On the next day morning, the dead body of deceased-Dharamveer was found near the Lord Shiva temple. The informant suspected the role of three persons, namely, Swapnil, Sandeep and Sachin @ Chetan (present applicant), on the ground that the deceased had committed murder of a person, namely, Guddu Shav. On enquiry, learned APP is unable to state the relation between Guddu Shav and the accused.

4. The only evidence against the applicant is the statement of co-accused during interrogation. The learned APP submits that the cloth seizure panchnama of the applicant indicates that there were bloodstains. The medical examination report shows that the applicant sustained three injuries. No explanation is forthcoming as to how did he sustained injuries.

5. The learned counsel for the applicant submits that the applicant sustained injuries on 24th May, 2022 in the quarrel that took place in a Beer Bar. It appears that the FIR bearing Crime No. 539/2022 has been registered against him and other persons. The learned APP has drawn my attention to the contents of the FIR to argue that the injuries are not mentioned in the FIR.

6. I need not go into the reasons as to why the applicant sustained injuries nor is there any requirement for the applicant to explain the cause of injuries. The prosecution will have to first establish a case against the applicant, then only the prosecution may expect certain explanation from the accused. A serious accusation of committing an offence punishable u/s 302 of the IPC is levelled against the applicant for which punishment provided is life imprisonment or death penalty. In such cases, the prosecution is expected to collect the evidence befitting the allegations. The prosecution ought not to oppose the bail application by merely relying on the statement of the co-accused without collecting any evidence in the investigation.

7. Put all together, for want of cogent and convincing evidence, personal liberty of the applicant cannot be compromised. The applicant has made out a case in his favour. Needless to mention that the

observations made in this order are only for deciding this Bail Application and the Court below shall not get influenced by it.

8. Hence the order :-

ORDER

- (i) The Application is allowed.
- (ii) The applicant-Sachin @ Chetan Shantaram Sonawane, be released on bail, in connection with Crime No. 543/2022 registered with Police Station Ramnagar, Chandrapur, for offences punishable under sections 302 read with Section and 120-B of the Indian Penal Code, on he furnishing P.R. bond in the sum of Rs. 25,000/- with one solvent surety in the like amount.
- (iii) The applicant shall not enter the territorial jurisdiction of Police Station Ramnagar, Chandrapur, pending trial, except once for complying bail conditions, i.e. (clause iv).
- (iv) 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 mobile number and the residence without permission of the trial Court.
- (v) The applicant shall regularly attend the court and cooperate to complete the trial. The applicant shall not seek adjournments, except under extreme circumstances to the satisfaction of the trial Court.
- (vi) 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 from disclosing such facts to the Court or any Police Officer.
- (vii) The applicant shall not leave the territory of Chandrapur District without prior permission of the Court, till the trial is over.

(viii) The applicant shall maintain law and order.

(ix) 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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