

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

...

**CRIMINAL APPLICATION (BA) NO. 1457/2022**

Siddeshwar s/o Sakharam Nanhai

.. Applicant

**versus**

The State of Maharashtra

Th: Its PSO PS Sakharkheda Ta.Sindkhedraja

Dist. Buldana.

.. Respondent

.....  
Mr.A.V.Wankhede, Advocate for the applicant

Mr.A.M.Kadukar, APP for Respondent  
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**CORAM:** ANIL L. PANSARE, J.

**DATED** : 2<sup>nd</sup> March, 2023.

**PC:**

Heard learned counsel for both the sides, at length.

2. This is an application under Section 439 of the Code of Criminal Procedure. The applicant has been arrested on 25.12.2021 in Crime No. 409/2021 registered at Police Station Sakharkheda Tq. Sindkhedraja, District Buldana, for the offences punishable under Sections 302 and 201 of the Indian Penal Code.

3. Briefly stated, the case of the prosecution is that the applicant has killed his own son, aged 12 years. The FIR has been lodged by the wife of the applicant stating that the applicant suspected her character. On 24.12.2021, the informant, applicant and their two children had dinner thereafter, they all went to sleep. The applicant was sleeping in separate room whereas the wife and two children slept in another room. At about 2.00 am. in the night, the applicant took his son

Amar in another room and that being routine, the informant did not object. On 25.12.2021, the informant woke up early and found to her utter dismay that her husband and son were not present. The husband came back after some time. When enquired, he stated that he has sent his son to appropriate place. The informant suspected something fishy and, therefore, she told the neighbourer-Badrinath Gadge. Upon enquiry, the applicant told Badrinath that he has thrown his son in Koradi river. Thereupon, body of the son was recovered from the said river. The cause of death is shown as throttling.

4. The narration above, would indicate high probability of applicant of committing the murder of his son, but then such probability cannot replace the requirement of proof beyond doubt. The Investigating officer ought to have collected additional evidence which he can collect even now under section 173(8) of the Code of Criminal Procedure. But the fact remains that no one has seen the applicant leaving his house with his son nor has anyone seen the applicant throwing his son in the river. In the circumstances, although the learned APP has opposed the application, I am of the view that the applicant is entitled to be released on bail.

5. The charge-sheet has been filed. The charge has not yet been framed. It will take time to commence and conclude the trial. In the circumstances and for the reasons recorded in earlier paragraphs, in my considered view, no fruitful purpose would be served by keeping the applicant behind bars. The interest of prosecution can be protected by putting the applicant to appropriate terms.

6. Needless to mention, that the observations made hereinabove are for the purpose of deciding this Application only and the trial Court shall not get influenced by it.

7. Hence, the following order :

ORDER

- (i) The Application is allowed.
- (ii) The applicant-Siddeshwar s/o Sakharam Nanhai, be released on bail, in Crime No. 409 /2021 registered at Police Station Sakharkheda Tq. Sindkhedraja, District Buldana, for the offences punishable under Sections 302 and 201 of the Indian Penal Code, on he furnishing P.R. bond in the sum of Rs. 50,000/- (Rupees fifty thousand) with one or two sureties in the like amount.
- (iii) 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(s) and the residence till the final disposal of the case.
- (iv) The applicant shall regularly attend the court and cooperate the learned trial Court to complete the trial for the above offences. The applicant shall not seek adjournments, except under extreme circumstances to the satisfaction of the trial Court.
- (v) 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.
- (vi) The applicant shall maintain law and order.
- (vii) The applicant shall not enter the territory of Police Station Sakharkheda, Tq.Sindkhedraja, till the trial is over.

(viii) The applicant shall not contact, in any manner, his wife and daughter.

(ix) In case of breach of any condition, 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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