

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

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CRIMINAL APPLICATION (BA) No. 1459/2022

Dnyandev s/o Ramprasad Aghav

.. Applicant

versus

The State of Maharashtra

Th: Its PSO PS Bibi Tq.Lonar,

Dist. Buldhana.

.. Respondent

.....
Mr.A.M. Mardikar, Senior Advocate with Mr Ved R.Deshpande, Adv. for
the applicant

Mr. V.A.Thakare, APP for Respondent-State

Mr. B.T.Parwe, Advocate (assist to prosecution)

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CORAM: ANIL L. PANSARE, J.

DATED : 19th January, 2023

PC:

Heard the learned counsel for the respective parties.

2. The applicant has been arrested on 11.06.2022 in Crime No. 89/2022 registered at Police Station Bibi Tah.Lonar, Dist. Buldana for the offences punishable under sections 302, 120B read with Section 34 of the Indian Penal Code.

3. The applicant and the wife of the deceased were said to be involved in an illicit relationship. The prosecution claims that the applicant and the wife of the deceased have killed the deceased. The *post-mortem* report shows that death has been caused due to strangulation. On 10.06.2022, the nephew of the deceased lodged an oral report with the concerned Police Station mentioning therein that his

wife Sunita informed him that the dead body of the deceased was found floating in a well belonging to one Janabai Chauhan. Accordingly, an accidental case u/s 174 of Cr.P.C. was registered. The prosecution claims that during investigation it was revealed that the actual cause of murder is the illicit relationship between the applicant and the wife of the deceased. Accordingly, Gopal Rathod, PSI, lodged the report which has been registered as Crime No.89/ 2022.

4. Mr. A.M. Mardikar, learned senior Advocate submits that except for the suspicion expressed by some villagers, there is absolutely no admissible evidence against the applicant. He further submits that the co-accused i.e. wife of the deceased, has already been released on bail by this Court on 28th November 2022 in Criminal Application (BA) No. 1234/2022 and, as such, the applicant is claiming parity.

5. Mr. Thakare, learned APP and Mr. B.T. Parwe, learned Advocate submit that the evidence in the form of discovery of rope u/s 27 of the Indian Evidence Act is a clinching evidence. On query as to how this rope would connect the applicant to the crime, they submit that there is a query report indicating that the death is possible by this rope. To my mind, this cannot be said to be admissible evidence. If prosecution intends to rely upon the discovered material, it will have to prove that the death has been caused by that material/ article or that, the material/ article is directly connected with the crime.

6. Considering the aforesaid evidence collected against the applicant and since the co-accused has already been released on bail, there is no reason that the applicant should continue to languish in jail.

7. On enquiry, the learned senior Advocate submits that there are no criminal antecedents against the applicant. He owns immovable property viz. agricultural land and, as such, has a strong roots in the society. Moreover, the charge-sheet has already been filed in the matter.

8. 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.

9. Hence the order :-

ORDER

(i) The Application is allowed.

(ii) The applicant- Dnyandev s/o Ramprasad Aghav, be released on bail, in Crime No.89/2022 registered with Police Station Bibi, Tq.Lonar Dist. Buldhana, for the offences punishable under sections 302, 120B read with Section 34 of the IPC, 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 Bibi Police Station, Tq.Lonar Dist. Buldhana, pending trial, except once for complying bail condition (viz. Condition 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 till the final disposal of the case.

(v) The applicant shall regularly attend the court and cooperate the learned trial Court 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 Buldhana 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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