



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

CRIMINAL APPLICATION (BA) NO.124 OF 2024

Arvind s/o Shrikant Pawar

Vs.

State of Maharashtra, Through Police Station Officer, Police Station,
Sakharkheda, District Buldhana

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. Anil Mardikar, Senior Advocate h/f Mr. Ved. R. Deshpande, Advocate
for applicant.

Ms. Swati Kolhe, APP for respondent/State.

CORAM : URMILA JOSHI-PHALKE, J.

DATED : 13 /03/2024

1. The applicant is arrested on 29.07.2023 in connection with Crime No.256/2023 registered with Police Station Sakharkheda, District Buldhana for the offence punishable under Section 302 and 120-B read with Section 34 of the Indian Penal Code.

2. The accusation against the present applicant is on the basis of report lodged by Mansubrao Sheshrao Deshmukh, who has lodged the report against the unknown persons, as the dead body of the deceased was found on Sakharkheda to Lavhala road at a distance of 40 to 50 ft. During the investigating, the statement of one Nandkishor Dhansing Patthe was recorded. On the basis of which, the involvement of the present applicant is revealed.

3. It is submitted by the learned Senior Counsel Mr. Anil Mardikar that the entire case is based on circumstantial evidence. As far as the present applicant is concerned, the allegation is that he was involved in the conspiracy to eliminate the deceased. During the identification parade, the applicant is not identified by this Nandkishor Patthe, besides this statement, there is no other material to connect the present applicant with the alleged offence. He submitted that considering the case is based on the circumstantial evidence and there is no link of the circumstances which connect the present applicant with the alleged offence. Now, the investigation is completed and charge-sheet is filed, further incarceration of the present applicant is not required. In view of that, he be released on bail.

4. Learned APP strongly opposed the application on the ground that offence is of a grievous nature, wherein due to the previous enmity between the co-accused Gajanan Devrao Rohi and deceased Keshav Vithoba Bhutekar, present applicant and another co-accused hatched the conspiracy and in perusal of the said conspiracy, they have eliminated the deceased. Considering the involvement of the present applicant revealed, on the basis of statement of one Nandkishor Patthe, the application deserves to be rejected.

5. After hearing the learned Senior Counsel for the applicant and learned APP for the State, perused the investigation papers. During the investigation, the Investigating Officer has collected the Postmortem Notes, which shows that the death of the deceased is caused due to the head injury. As far as the present applicant is concerned, only statement of Nandkishor Patthe is recorded from which the allegation is made that the present applicant is the person, who was following when deceased was taken in one auto rickshaw. Admittedly, said Nandkishor Patthe has not identified the present applicant during the identification parade. Learned Senior Counsel rightly pointed out that memorandum statement of present applicant was recorded on 30.07.2023 at about 14.42 to 15.10 hours and panchnama was drawn from 16.00 to 17.00 hours, whereas seizure panchnama shows the timing of the seizure of the articles at about 3.00 p.m. He further submitted that even accepting the seizure of the clothes at the instance of the present applicant, no blood stains were found on the said clothes.

6. Considering the nature of the evidence admittedly, except the circumstance that the statement of the Nandkishor Patthe, there are no other circumstances to connect the present applicant with the alleged offence. Considering the fact that now, the investigation is completed and charge-sheet is filed and considering the nature of the evidence

which is collected during the investigation, the application deserves to be allowed by imposing certain conditions. Accordingly, I proceed to pass following order.

ORDER

- (i) The application is allowed.
- (ii) The applicant **Arvind s/o Shrikant Pawar** be released on bail in connection with Crime No.256/2023 registered with Police Station Sakharkheda, District Buldhana for the offences punishable under Sections 302 and 120-B read with Section 34 of the Indian Penal Code, on executing PR bond in the sum of Rs.25,000/- with one solvent surety in the like amount.
- (iii) The applicant shall not enter into the vicinity of Chikhli, Taluka Chikhli. District Buldhana, till the culmination of the trial.
- (iv) The applicant shall not induce, threat or promise any witnesses who are acquainted with the facts of the case.
- (v) The applicant shall attend the proceedings before the trial Court regularly without seeking any exemption unless there are exceptional circumstances.

The application is disposed of.

(URMILA JOSHI-PHALKE, J.)