



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

CRIMINAL APPLICATION (BA) NO.465 OF 2024

Raju s/o Balram Choudhary

Vs.

State of Maharashtra, Through Police Station Officer, Hingna,
District Nagpur

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

Court's or Judge's orders

Mr. K. Y. Mandpe, Advocate for applicant.
Mr. K. R. Lule, APP for respondent/State.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 02/08/2024

Criminal Application (APPP) NO.1391 /2024

1. By this application, the State is seeking permission to file reply manually by granting exemption to file by e-filing.
2. It is submitted by the learned APP that due to the technical difficulties, the State is unable to upload the reply through e-filing and therefore, the State be permitted to file reply manually.
3. In view of the reasons mentioned in the application, the State is permitted to file the reply manually.
4. The application is disposed of.
5. The reply filed by the State is taken on record.

CRIMINAL APPLICATION (BA) NO.465 OF 2024

1. The applicant came to be arrested on 21.11.2023 in connection with Crime No.702/2023 registered with Police Station Hingna, District Nagpur for the offences punishable under Sections 302, 120-B and 201 read with Section 34 of the Indian Penal Code.

2. The accusation against the present applicant is on the basis of the report lodged by API Pandurang Prabhakar Jadhav alleging that on 14.11.2023 the owner of the agriculture land Survey No.72 Khasra No.48/2 was proceeding from his agricultural land. At the relevant time, he has seen the Chapple and one Duppta in the agricultural field therefore, he suspected. At some distance from his agriculture field, the dead body of one lady aged about 35 to 45 was seen. He immediately informed to the police. Police visited the said spot. At the said spot, they have seen earrings of yellow metal, two white colour metal finger rings and broken bangle pieces. The injuries were also seen on the neck of the deceased. On the basis of the said report, police have registered the crime against the unknown person.

3. During the investigation, it revealed to the Investigating Officer that the co-accused Devram Harichand Patle is the husband of the deceased and

there was no cordial relations between the husband and wife. He took the deceased on his motorcycle on the pretext of visiting the hospital and on the way with the help of the present applicant and other co-accused committed the murder of his wife by giving blow by means of a blade on her neck. She sustained the grievous injuries on her neck and succumbed to the death. On the basis of said allegation, the present applicant was arraigned as an accused.

4. Learned Counsel for the applicant submitted that the entire case is based on the circumstantial evidence. Except the statement of the co-accused there is no other material to connect the present applicant with the alleged offence. He has taken me through the entire evidence and submitted that the statement of the co-accused i.e. husband of the deceased is recorded and at his instance, the blade which was used in commission of the crime was seized. While recording the memorandum statement, he has referred the name of the present applicant and even the role attributed to the present applicant, as per the said memorandum statement is that he was keeping watch when the co-accused has committed the murder of the deceased. Thus, he submitted that except the statement of the co-accused, there is absolutely no material to connect the present applicant with the alleged offence. Merely because the co-accused was working with the

present applicant, he is implicated falsely in the alleged offence. Now, the investigation is completed and charge-sheet is filed, further incarceration of the present applicant is not required.

5. Learned APP strongly opposed the said application on the ground that the offence is of a serious nature. The present applicant and other co-accused have hatched the conspiracy to eliminate the deceased and in pursuance of the said conspiracy, the deceased was eliminated by the co-accused who is the husband of the deceased. Thus, considering the gravity of the offence, the application deserves to be rejected.

6. After hearing the learned Counsel for the applicant and learned APP for the State, perused the entire investigation papers from which it reveals that the co-accused Devram Patle is the husband of the deceased. There was no cordial relations between the deceased and the co-accused. The deceased was inhabit of drinking liquor and there used to be frequent quarrels between them. It is alleged that therefore, the co-accused hatched the conspiracy with the present applicant to eliminate the deceased. As far as the conspiracy is concerned, absolutely except the statement of the co-accused, there is no material to show that at any point of time present applicant and other co-accused met each other at some place and had the conspiracy. Admittedly,

there would not be direct evidence available for the conspiracy, but there should be some evidence to show the involvement of the present applicant in conspiracy. On perusal of the entire investigation papers admittedly, except the statement of the co-accused, there is absolutely no material collected by the investigating agency to connect the present applicant with the alleged offence. Now, the investigation is already completed and charge-sheet is already filed, further incarceration of the present applicant is not required. In view of that the application deserves to be allowed. Accordingly, I proceed to pass following order:

ORDER

- (i) The application is allowed.
- (ii) The applicant **Raju s/o Balram Choudhary** shall be released on bail in connection with Crime No.702/2023 registered with Police Station, Hingna, District Nagpur for the offences punishable under Sections 302, 120-B and 201 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 Hingana, Nagpur, 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.

(6)

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7. The application is disposed of.

(URMILA JOSHI-PHALKE, J.)

Sarkate