



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

CRIMINAL APPLICATION (BA) NO.546 OF 2024
(Narendra Wamanrao Sawarkar Vs. The State of Maharashtra)

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Mr. Abdul Subhan, Advocate for the applicant.
Mr. A.G. Mate, APP for the State.

CORAM:- URMILA JOSHI-PHALKE, J.
DATED :- JUNE 27, 2024.

By preferring this application, the applicant is seeking bail under Section 439 of the Code of Criminal Procedure. The applicant came to be arrested on 06/05/2024 in connection with Crime No.242/2024 registered with Police Station Khaparkheda, Tahsil Saoner, District Nagpur for the offence punishable under Sections 201 and 302 of the Indian Penal Code.

2. The accusation against the present applicant is on the basis of report lodged by the Police Constable Amol Lohakare on an allegation that on 04/05/2024 when he was on day duty at Inspection Bungalow he came to know that the deceased who was suffering from ill-health and died. He immediately went to draw the inquest panchnama, at the relevant time he witnessed some ligature mark on his neck. Initially merg was registered. During inquiry the wife of the deceased disclosed that she is having illicit relationship with the present applicant who is brother of the deceased. He

further stated that, she further disclosed that the deceased was quarrelling with her, and therefore, she has disclosed this fact to the present applicant, and therefore, present applicant has strangled his neck and committed his murder. On the basis of said report, police have registered the crime against the present applicant.

3. Learned Counsel for the applicant submitted that as far as the prosecution is concerned which is completely relied upon the circumstantial evidence. There is no single circumstance except the allegation to connect the present applicant to show that he was having illicit relations with the wife of the deceased. He further submitted that the statements of the witnesses also in a hearsay nature. Thus, merely on suspicion, the applicant is arrested. Now, investigation is completed, further incarceration of the present applicant is not required. In view of that, he be released on bail.

4. Learned APP strongly opposed the said application on the ground that during investigation the statements of the witnesses are recorded and it revealed that there was illicit relations between the present applicant and the wife of the deceased and to continue the said relationship with the wife of the deceased, the deceased was eliminated by the present applicant. Considering the *prima facie* case, the application deserves to be rejected.

5. I have heard learned Counsel for the both the parties. Both the learned Counsel have taken me through the entire evidence. Entire case is rested on circumstantial evidence. During evidence, the Investigating Officer has recorded the various statements of the witnesses. Initially, the merge report was filed by one Atul Tulshiram Patil. During the enquiry of the merge report, also various statements are recorded. As far as the illicit relations with the wife of the deceased is concerned which is not substantiated by any material evidence which is collected during the investigation. Except the statement of the witnesses, no specific instances are narrated by the witnesses to show that from these circumstances they came to know that there was an illicit relations between the present applicant and the wife of the deceased. There is no dispute as to the fact that the death of the deceased is caused due to the ligature strangulation. But as far as the involvement of the present applicant is concerned except the suspicion there is no other material to connect him with the alleged offence.

6. Considering now the investigation is completed and the nature of the evidence, further incarceration of the applicant is not warranted. In view of that, the application deserves to be allowed. Accordingly, I proceed to pass the following order:

- (i) The application is allowed.

(ii) The applicant – Narendra Wamanrao Sawarkar shall be released on bail, in connection with Crime No.242/2024 registered with Police Station Khaparkheda, Tahsil Saoner, District Nagpur for the offence punishable under Sections 201 and 302 of the Indian Penal Code, on executing P.R. Bond in the sum of Rs. 25,000/- with one solvent surety in the like amount.

(iii) The applicant shall not induce, threat or promise any witnesses who are acquainted with the facts of the present case.

(iv) The applicant shall attend the proceeding before the Sessions Court without seeking any exemption unless there are exceptional circumstances.

7. The application is disposed of.

(URMILA JOSHI-PHALKE, J.)

**Divya*