



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

CRIMINAL APPLICATION (BA) NO.740 OF 2023

Deepak s/o Panna Pawar

Vs.

The State of Maharashtra, Through Police Station Officer, Police Station, Loni,
Taluka Nandgaon Khandeshwar, District Amravati

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

Court's or Judge's orders

Mr. V. G. Bhamburkar, Advocate for applicant.

Mr. S. S. Hulke, APP for non-applicant /State.

CORAM : URMILA JOSHI-PHALKE, J.

DATED : 04/01/2024

1. Present application is filed by the applicant for seeking bail under Section 439 of the Code of Criminal Procedure in connection with Crime No.271/2022 registered with Police Station, Loni, Taluka Nandagaon Khandeshwar, District Amravati for the offence punishable under Sections 302, 201, 120-B read with Section 34 of the Indian Penal Code. The applicant is arrested on 18.09.2022 and since then he is behind bar.

2. The accusation against the present applicant is that on 15.09.2022 the informant Imran Khan Mohammad Khan resident of Mominpura, Badnara had received a call from his friend Raman from Amravati, who had informed him that two labours were spraying insecticide in his field and also informed that two people had been murdered in Gadbad Shah Dargah and their

bodies were lying there. Therefore, informant immediately called his father Mohammad Khan Mustafa Khan, who is the trustee of said Dargah and immediately visited the spot and saw the dead bodies having injuries on their person. Both the dead bodies were lying separately on the mattress. The alleged incident took place in the intervening night of 14.09.2022 to 15.09.2022. On the basis of said report, police have registered the crime against the unknown person.

3. During the investigation, it reveals to the investigating agency that co-accused Laxman Gorakh Pimpale who was initially working in the Dargah and was taking money from the persons visiting in the Dargah and, therefore, he was removed from the work, on which he got annoyed against the deceased Anwar Beg and with this motive, he has committed the murder of Anwar Beg Akbar Beg and Sheikh Taufiq Abdul Rafiq.

4. Learned Counsel for the applicant Mr. Bhamburkar submitted that the other co-accused who against whom the motive is attributed is already released on bail. The entire case is rested on the circumstantial evidence. The only circumstance against the present applicant is that the co-accused stayed along with the present applicant in the agriculture field wherein the present applicant was doing the labour work and the another circumstance that the blood stained clothes of the co-accused and the knife was recovered at the instance of the present applicant. He further

submitted that the statements of the witnesses only shows that they have seen the co-accused along with the present applicant. Except the said statement, no other role is attributed to the present applicant. Now the co-accused is already released on bail. The case of the present applicant is on a better footing. Now, investigation is completed, charge-sheet is filed and further incarceration of the present applicant is not required and prays for releasing the applicant on bail.

5. Learned APP strongly opposed the application on the ground that though the case is based on circumstantial evidence, the act committed by the present applicant is in furtherance of common intention. Considering the gravity of the offence, the application deserves to be rejected.

6. After hearing both the sides. Perused the investigation papers, it reveals that the alleged incident has taken place during the intervening night of 14.09.2022 and 15.09.2022. As far as the role of the present applicant is concerned, which shows that the blood stained clothes and one knife are recovered at the instance of the present applicant. It is apparent that the investigating agency has shown these clothes which were recovered at the instance of the memorandum statement. However, the said place was already known to the investigating agency. Thus, the spot from which both the recoveries were shown was already known to the investigating agency. After going through the various

statements, only circumstance which is brought on record is that some of the witnesses have witnessed the present applicant along with the co-accused in the agricultural field which is nearby to the spot of incident. The statement of the field owner is also recorded who only narrated that the present applicant is cultivating his land and the presence of the co-accused was with the present applicant.

7. Considering the role and the material collected during the investigation and the case is based on circumstantial evidence wherein the chain of the circumstances requires to be completed. As the other co-accused to whom major role is attributed is already released on bail and the role of the present applicant is comparatively lesser to the other co-accused. Considering the nature of the material collected by the Investigating Officer, the bail application of the present applicant deserves to be allowed by imposing certain conditions. Accordingly, I proceed to pass following order.

ORDER

(i) The Criminal Application is allowed.

(ii) The applicant **Deepak s/o Panna Pawar**, in connection with Crime No.271/2022 registered with Police Station, Loni, Taluka Nandagaon Khandeshwar, District Amravati for the offence punishable under Sections 302, 201, 120-B read with Section 34 of the Indian Penal Code, be released on bail on furnishing

PR bond in the sum of Rs.25,000/- with one solvent surety in the like amount.

(iii) The applicant shall attend the concerned Police Station once in a month on Sunday between 10.00 a.m. to 1.00 p.m. till culmination of the trial.

(iv) The applicant shall not directly or indirectly make any inducement, threat or promise to any persons acquainted with the facts of the case.

(v) The trial Court shall not influence by the observations made by this Court which is only for the purpose of grant of bail.

The criminal application is disposed of.

(URMILA JOSHI-PHALKE, J.)