



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

CRIMINAL APPLICATION (BA) NO.808 OF 2024

(Mr. Munir Asgar Sheikh Vs. 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

Ms S.S. Kulkarni, Advocate for the applicant.
Mrs. H.N. Prabhu, APP for the State.

CORAM:- URMILA JOSHI-PHALKE, J.
DATED :- OCTOBER 17, 2024.

By this application, the applicant is seeking bail as he came to be arrested on 21/11/2023 in connection with Crime No.702/2023 registered with Police Station Hingna, District Nagpur for the offence punishable under Sections 302, 120-B, 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 footwear and one dupatta 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 and accordingly police have visited the said spot. During the spot panchnama, 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 who is the husband of the deceased and there was no cordial relations between the husband and wife. He conspired with the present applicant and the other co-accused and 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 the said report, police have registered the crime against the present applicant.

4. Learned Counsel for the applicant submitted that the entire case is based on the circumstantial evidence. The other co-accused Raju s/o Balram Choudhary is already released on bail by this Court. Except the statement of the co-accused there is no other material to connect the present applicant with the alleged offence. She has taken me through the entire evidence and submitted that the statement of the co-accused i.e. husband of the deceased is not admissible. As far as the

recovery of the articles is concerned nothing is recovered from the present applicant. Thus, the material collected by the investigating agency to connect the present applicant with the alleged offence is not sufficient, and therefore, he be released on bail. Now, investigation is also completed, further incarceration of the present applicant is not required.

5. Learned APP strongly opposed the said application and submitted that besides the statement of the co-accused the CCTV footage is collected and in the said CCTV footage it revealed that present applicant and the other co-accused were seen together purchasing the liquor bottle. The statement of the witnesses i.e. the wife of the present applicant shows that he was not at the house on the day of incident. The statements of the shop owners namely Vishnu Dnyaneshwar Surkar and one of the witness Jayshi Deepak Khobragade shows that they have seen the present applicant, other co-accused and the deceased at their Zunka Bhakar Centre and thereafter deceased got missing and her dead body was seen. She submitted that the CDR reports also shows the location of the present applicant near the spot of incident. There are constant calls between the present applicant and the other co-accused. Thus, there are sufficient material in the nature of the circumstances to connect the present applicant with the alleged offence. Considering the *prima facie* case, the application deserves to be rejected.

6. I have heard learned Counsel for both the parties. Perused the entire investigation papers from which it reveals that besides the statement of the co-accused the investigating agency has collected the CCTV footage from the liquor shop. In the said CCTV footage it reveals that the present applicant and the other co-accused were seen together while purchasing the liquor. Thereafter they were seen together along with the deceased by witnesses also. The CDR report shows the location of the present applicant near the spot of incident as well as there are constant calls between the present applicant and other co-accused. Therefore, the ground of parity is not available to the present applicant as the role attributed and the evidence available against the present applicant and the other co-accused is completely different, therefore, the case of the present applicant cannot be equated with the co-accused who is released on bail.

7. Considering the *prima facie* case and the manner in which the deceased was eliminated, the *prima facie* case is made out against the present applicant, the application deserves to be rejected.

8. The application is rejected accordingly.

(URMILA JOSHI-PHALKE, J.)