



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

CRIMINAL APPLICATION (BA) NO. 1022/2023

Manoj s/o Sagar Wankhede V/s 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. S.V.Sirpurkar, counsel for applicant.

Mr. A.R.Chutke, APP for the non-applicant/State.

CORAM : URMILA JOSHI-PHALKE, J.

DATED : 04/01/2024.

1. The present application is for grant of bail filed under Section 439 of the Code of Criminal Procedure in connection with Crime No.286/2022 registered at Police Station, Dongaon, District Buldhana for the offences punishable under Sections 302 and 201 read with Section 34 of the Indian Penal Code. The applicant is arrested on 02nd December, 2022 since then he is in jail.

2. The applicant is the father of the deceased. As per the allegation in the First Information Report deceased Mayuri Manoj Wankhede, who is the daughter of the present applicant, whose dead body was found floating in the Well on 11/11/2022. On conducting the postmortem, it revealed that death of the deceased is caused due to strangulation. Initially, the crime was registered against the unknown person.

3. During the investigation, the statements of the witnesses are recorded from which it revealed that the applicant was witnessed near the spot of incident i.e. near the Well by one of the witness. The another circumstance came before the investigating officer that the incriminating article i.e. part of one cable tie seized at the instance of the present applicant which is locking cable tie and part of the same was found along with the deceased. As per the allegation that deceased Mayuri Manoj Wankhede was having love affair with one boy and which was disliked by the present applicant and the other co-accused, and in furtherance of their common intention, they have committed her murder.

4. The learned counsel Mr. S.V.Sirpurkar for the applicant submitted that entire case is based on the circumstantial evidence, only two circumstances, on which the prosecution is relied upon is that, one of the witness namely Akash Shivajirao Jumade disclosed that he has witnessed the applicant at about 12.30 near the Well, whereas the dead body of the deceased was found. And the another circumstance, that part of the locking cable tie was found in the house of the present applicant and another part of cable tie was found near the dead body of the deceased.

5. He submitted that if the statement of Akash Shivajirao Jumade is taken into consideration then the inconsistent statement on which, the prosecution relied upon shows that the deceased was seen in agricultural field at about 3.15 p.m. The statement of Suresh Sagar Wankhede shows that he has witnessed the deceased and her mother in the agricultural field at about 3.15 p.m. Whereas, the statements of Sukeshni Suresh Wankhede, Shital Prakash Wankhede shows that at about 12.30 p.m., the deceased was in the house and the co-accused who is her mother was sitting outside the house. All these witnesses have stated that at about 12.30 p.m. the deceased was watching T.V. in the house. If these statements are considered then the statement of Akash loses its significance, and the circumstance, on which the prosecution relied upon washes out.

6. He further submitted that it is well settled that, when the case is listed on circumstantial evidence, all the circumstances on which, the prosecution relied upon are to be proved and the circumstances shows that unerringly point out towards the guilt of the accused. He also submitted that the circumstances on which the prosecution relied upon are not sufficient to 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.

7. Per contra, learned APP strongly opposed the present application on the ground that the death of the deceased is caused and the dead body was found near the Well, which is situated in the agricultural field of the present applicant. He further submitted that the deceased is the own daughter of the applicant, and the statement of Rahul Baban Kharat shows that there was a love affair between the deceased and her, and the deceased has raised the apprehension that if her parents came to know about the love affair, then they would killed her.

8. He further submitted that the statement of the Akash and other witnesses points out the connection between the present applicant and the alleged crime. Another incriminating circumstance that the similar locking cable tie found on the neck of the deceased. He submitted that considering the gravity of the offence and the witnesses which are from the same village, there is every possibility that applicant will tamper the prosecution evidence and prays for rejection of the application.

9. After hearing both the sides and on perusal of the investigation papers, admittedly the entire case is listed on circumstantial evidence, the prosecution placed reliance on the circumstance that one locking cable tie was found around the neck of the deceased and the similar cable tie was seized from the house of the present applicant. The another circumstance is that the witness Akash Shivajirao Jumade witnessed the present applicant, who is the father of the deceased proceeding from the spot of incident i.e. where the dead body of the deceased was found.

10. After going through the statement of the witnesses, admittedly none of the witness have pointed out that present applicant was seen near the Well where the dead body was found. Admittedly, the said Well is situated in the agricultural field of the present applicant.

11. As per the statement of the said Akash Shivajirao Jumade at about 12.30, he has witnessed the present applicant proceeding from the spot of incident, whereas the statements of the other witness, who are the family members of the present applicant and the deceased shows that at about 12.30 p.m. deceased was in the house and watching the T.V. The statement of one Suresh also states that at about 3.15

p.m. he has witnessed the deceased and her mother in the agricultural field.

12. Thus, there are inconsistency as to the time exact time of the incident. Now, investigation is already completed and charge-sheet is filed. As far as the apprehension raised by the learned APP is concerned, some conditions can be imposed on the present applicant. In view of that, criminal application is deserves to be allowed. Accordingly, I proceed to pass following order;

- a) The applicant – Manoj s/o Sagar Wankhede in connection with Crime No.286/2022 registered at Police Station, Dongaon, District Buldhana for the offences punishable under Sections 302 and 201 read with Section 34 of the Indian Penal Code, 1860 is released on bail is released on bail on furnishing P.R. bond in the sum of Rs.25,000/- each with one solvent surety in the like amount.
- b) The applicant shall not enter into the vicinity of the village Moli, Tah. Mehkar, District Buldhana.
- c) The applicant shall not induce threat or promise to any witnesses who are acquainted with the facts of the present case

and shall not tamper with the prosecution evidence.

- d) The trial Court shall not be influenced by the observation made by this Court which is made only for the purpose of deciding the application for bail.

The criminal application is disposed of.

[URMILA JOSHI-PHALKE, J]