



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

CRIMINAL APPLICATION (BA) NO. 1126/2023

Sagar Baban Magare (In Jail) 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. R.G. Kavimandan, counsel for the applicant.
Mr. S.S. Hulke, APP for the non-applicant/State.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 14/02/2024.

1. The present application is filed by the applicant for grant of regular bail, in connection with Crime No. 537/2022 registered with the Police Station Buldhana (City) for the offence punishable under Sections 120-B, 302 read with Section 34 of the Indian Penal Code, 1860. The applicant came to be arrested on 10/07/2022.

2. The accusation against the present applicant is on the basis of report lodged by one Shubham Dattu Hivale, wherein he alleged that on 09/07/2022 at about 3.00 p.m. when he was in the house, at that time, his maternal uncle – Dinesh Baburao Arakh and the applicant came to his house, both were in a drunkard condition. On 10/07/2022, the dead body of Dinesh Arakh was found, and there were serious injuries on his person. It is further alleged that the son of the deceased Dinesh Arakh, Nilesh Arakh, and the present applicant are having illicit relations with one lady and therefore, some dispute arose between the deceased and the

applicant. On that count, the applicant and the said lady committed the murder of the deceased. On the basis of said report, the Police have registered the crime.

3. Learned counsel for the applicant submitted that as far as the investigation in this case is concerned, the entire case is rested on circumstantial evidence. Except the suspicion, there are no other circumstances to connect the present applicant with the alleged offence. Now, the investigation is completed and charge-sheet is filed, and further incarceration of the present applicant is not required. He further submitted that though, the prosecution relied upon the circumstance, which is not sufficient to connect the present applicant with the alleged offence. In view of that applicant be released on bail.

4. Learned APP strongly opposed the present application on the ground that on the day of the incident, several witnesses had seen the deceased together with the present applicant, and thereby the dead body of the deceased was found. During the investigation, the various statements are recorded. The statement of the wife of the deceased shows that, the false information is given by the present applicant to her. Moreover, blood-stained clothes are seized at the instance of the present applicant. These circumstances sufficiently connect the present applicant with the alleged offence. At this stage, prima-facie case is made out against the applicant. Hence, the application deserves to be rejected.

5. Having heard learned counsel for the applicant and learned APP for the State, perused the investigation papers. Admittedly, the entire case is rested on circumstantial evidence, the circumstances which are against the accused in the present case that, several witnesses have seen the deceased lastly in the company of the present applicant. The statement of the witnesses further shows that the present applicant and son of the deceased were having illicit relations with one lady in the village, which is opposed by the deceased. The lady has threatened the deceased that she will commit his murder. The statement of the wife of the deceased is also recorded from which, it reveals that the present applicant has given false information to the wife of the deceased, that the deceased is sleeping in the house of one Vandana Dattu Hiwale.

6. During the investigation, the investigating officer has recorded the memorandum statement of the accused i.e. applicant and at his instance, the blood-stained clothes of the accused were also seized. The C.A. reports are yet to be received. Considering the circumstances on record which prima-facie shows the involvement of the present applicant in the alleged offence. The offence is of a serious nature. The circumstances under which the alleged incident has taken place and the manner in which the death of the deceased is caused is also necessary to be looked into.

7. Moreover, considering the prima-facie case against the present applicant, the bail application deserves to be

rejected. Accordingly, I proceed to pass the following order:
The criminal application is **rejected**.

[URMILA JOSHI-PHALKE, J.]