



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

CRIMINAL APPLICATION (BA) NO. 1150 OF 2023

Rohit Suresh Jadhav

Vs.

State of Maharashtra, Through Police Station Officer, Police Station, Civil
Line Akola, District Akola

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

Court's or Judge's orders

Mr. A. S. Londhe, Advocate for applicant through video conference.
Mr. M. J. Khan, APP for respondent/State.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 11/03/2024

1. The applicant came to be arrested on 29.07.2023 in connection with Crime No.277/2023 registered with Police Station Civil Line Akola for the offences punishable under Sections 120-B, 364, 302, 201 and 506 read with Section 34 of the Indian Penal Code.

2. The accusation against the present applicant is on the basis of report lodged by mother of the victim. The dead body of one unknown person was found from the Well and thereafter, the wheels of the investigation started rotating. Prior to that, on 13.11.2022 the informant has lodged the missing report stating that her son Aakash has left the house on 12.11.2022 and not return back. During the investigation, the Investigating Officer has recorded the statement of one Prashik Sanjay Ingale and it

revealed that on earlier night i.e. on 12.11.2022 Aakash was lying in front of the shop of Wankhade Guruji, as he was under the influence of liquor. During the investigation, it further alleged that there was a previous enmity between the co-accused Pramod @ Pintu Thombre and the family of the informant, as brother of the said co-accused Pramod @ Pintu Thombre namely Vinod was murdered and since then said co-accused Pintu Thombre and the present applicants were threatening the complainant that they will see as the murder of his bother is committed. During the investigation, the suspicion was raised against the co-accused Pramod Thombre therefore, he was arrested. At his instance, some incriminating weapons were recovered, thereafter, the name of the present applicant was also revealed. On the basis of which the crime is registered.

3. Learned Counsel for the applicant submitted that the entire case is based on the circumstantial evidence. The chain of the circumstances has not been completed. Merely on the suspicion, the present applicant is arrested. Now, the investigation is completed and charge-sheet is filed. From the charge-sheet, it reveals that except the circumstance that the present applicant was working with the co-accused, no other circumstance is brought on record to connect him with the alleged offence. Considering the investigation is completed

and charge-sheet is filed, further incarceration of the present applicant is not required.

4. Learned Counsel for the applicant also placed on record his written submissions wherein he has reiterated the said facts and submitted that suspicion cannot take place of proof, except the suspicion there is no other material collected by the investigating officer, as no recovery from the present applicant.

5. Learned APP strongly opposed the application and pointed out that at the instance of the present applicant, the spot where the present applicant and other co-accused burnt the clothes of the deceased was discovered. The statement of the witnesses are also recorded from which it seems that there was a previous enmity between the co-accused and the present applicant. He further submitted that the weapons were recovered from the vehicle seized. The CDR reports are also there, which connect the present applicant with the alleged offence, as there were several calls between the present applicant and the other co-accused. He further pointed out that earlier rivalry reflects from the statement of the parents of the deceased. Two knives were recovered at the instance of the co-accused. The dead body was found completely in a decomposed condition. The inquest panchnama shows in what manner the deceased was assaulted and murdered. Considering

the circumstantial evidence which connect with the present applicant with the alleged offence, the applicant deserves to be rejected.

6. Having heard the learned Counsel for the applicant and learned APP for the State, perused the investigation papers, it reveals from the recitals of the FIR that initially, missing report was filed by the mother, as the deceased was missing. The recitals of the FIR further show that on earlier night the deceased was under the influence of liquor and was lying in front of the shop of one Wankhade Guruji. The mobile of the deceased was obtained by his friend and kept along with him. The statement of his friend Prashik Ingale is also recorded, who substantiates the said fact. It reveals from the recitals of the FIR that there was a previous enmity between the family of the deceased and co-accused Pramod @ Pintu Thombre as brother of the co-accused was murdered and since then they were threatening the family members of the deceased that he will look into the matter and will see towards them. On the basis of the said report, police have registered the crime against the present applicant. As dead body of the deceased was completely in decomposed condition, the identity of the deceased was revealed from the DNA report. During the investigation, the blood samples of the parents of the deceased were obtained as well as the samples of the deceased were also obtained from which it reveals

that Rekha and Namdev are the biological parents of the deceased.

7. During the investigation, the present applicant is arrested and on the basis of his memorandum statement, the place where they have burnt the clothes of the deceased is recovered. The incriminating articles i.e. two knives are also recovered at the instance of the co-accused. The CDR reports which are placed on record show that from 11th to 14th there were continuous calls between the present applicant and the other co-accused. Admittedly, the present applicant was working with the co-accused as a Driver. The discovery at his instance regarding the place where they have burnt the clothes of the deceased connect the present applicant with the alleged offence. The CDR report also shows his continuous communication with the co-accused. The statement of Prashik Ingale and the statement of Jitesh Jagdev Gawai also substantiate the said fact. Considering the manner in which the alleged incident has taken place, the involvement of the present applicant is also revealed from the circumstances. The circumstances are also substantiated by the fact that the weapons are recovered from the vehicle which is used in the commission of the crime. The place where the clothes of the deceased were burnt is also discovered at the instance of the present applicant. Thus, cumulative circumstances shows the involvement of

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the present applicant in the alleged offence. In view of that, the application deserves to be rejected. Accordingly, the application is rejected.

(URMILA JOSHI-PHALKE, J.)

Sarkate