



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

CRIMINAL APPLICATION (BA) NO.1195 OF 2023

(Sandip Chandrabhan Golange 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

Mr. A.R. Ingole, Advocate a/w Mr. Om Pandey, Advocate for the applicant.
Mr. A.R. Chutke, APP for the State.

CORAM:- URMILA JOSHI-PHALKE, J.

DATED :- FEBRUARY 21, 2024.

By preferring this application, the applicant is seeking bail under Section 439 of the Code of Criminal Procedure. The applicant came to be arrested on 18/05/2023 in connection with Crime No.165/2023 registered with Police Station Koradi, Nagpur, District Nagpur for the offence punishable under Sections 302, 201 read with Section 34 of the Indian Penal Code.

2. The crime is registered on the basis of report lodged by Gautam Yograj Barmate who alleged that the deceased Ghanshaym Sirsam was working at his agricultural field since 15 days and was residing alone. On 18/05/2023 at about 5.30 a.m. when he was proceeding for morning walk he witnessed the deceased in a nude condition and sustained the injury on his head. He immediately informed the police and lodged the report against the unknown person. On the basis of said report, crime is registered against the unknown person. During

the investigation, the involvement of the present applicant is revealed. The Investigating Officer has seized the weapon of the crime i.e. axe at the instance of the present applicant on the basis of his memorandum statement. During investigation, the Investigating Officer has also recorded the statements of the various witnesses wherein suspicion was raised against the present applicant, and therefore, he is arrested in the present crime.

3. Learned Counsel for the applicant submitted that as far as the present applicant is concerned except the suspicion there is no other material to connect him with the alleged offence. Though weapon is recovered at his instance no blood stains are found on the said weapon. Now, investigation is completed and charge-sheet is filed, further incarceration of the present applicant on the basis of suspicion is not required. In view of that, he be released on bail.

4. Learned Additional Public Prosecutor strongly opposed the application on the ground that there is extra judicial confession by the present applicant to the villagers. The weapon is also seized at his instance. Thus, *prima facie* case is made out against the present applicant, and therefore, the application deserves to be rejected.

5. Having heard learned Counsel appearing for the parties and perused the investigation papers. The FIR is lodged against the unknown person. During

investigation, the Investigating Officer has recorded the statements of various villagers which are hearsay. None of the witness stating that they have either seen the present applicant or any statement is made to them by the present applicant regarding the alleged crime. Besides his statement, the prosecution placed reliance on the seizure of the weapon at the instance of the present applicant. One axe is recovered at the instance of the present applicant on the basis of his memorandum statement. However, no blood stains are found on the said weapon. The cloths of the present applicant and other co-accused are also seized wherein also no blood stains are found. Thus, mere suspicion there is no other material against the present applicant to connect him with the alleged offence. Now, investigation is already completed and charge-sheet is already filed, further incarceration of the present applicant on the basis of said suspicion is not required. Admittedly, suspicion cannot take place of proof. Considering all these facts, the application of the applicant for grant of bail deserves to be allowed. Accordingly, I proceed to pass the following order:

- (i) The application is allowed.
- (ii) The applicant – Sandip Chandrabhan Golange in connection with Crime No.165/2023 registered with Police Station Koradi, Nagpur, District Nagpur for the offence punishable under Sections 302, 201

read with Section 34 of the Indian Penal Code, be released on bail on furnishing P.R. bond in the sum of Rs.25,000/- with one solvent surety in the like amount.

(iii) The applicant shall not enter into the vicinity of village Khapri, Taluka Kamptee, District Nagpur till the culmination of the trial.

(iv) The applicant shall furnish his Cell phone number and address where he would reside after release on bail with address proof before the Investigating officer.

(v) The applicant shall not directly or indirectly make any inducement and threat or promise to any person acquainted with the facts of the present case.

6. The application is disposed of.

(URMILA JOSHI-PHALKE, J.)

**Divya*