



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

CRIMINAL APPLICATION (BA) NO.17 OF 2024

(Ashish Dnyaneshwar Lilhare 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. Y.K. Dhande, Advocate for the applicant.
Mrs. M.H. Deshmukh, 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 29/08/2023 in connection with Crime No.356/2023 registered with Police Station Yavatmal Rural, District Yavatmal for the offence punishable under Sections 302, 120B, 449 and 460 of the Indian Penal Code.

2. The crime is registered on the basis of report lodged by PSI Gopal Eknath Utane who alleged that on 29/08/2023 when he was on a duty as a Day Officer he received the information that at Sajjangerh Mouza Talegaon one Ramdas Maharaj and one lady by name Pushpa found dead. He immediately rushed to the spot of incident and it revealed that they were assaulted by somebody and dacoity is also committed at the place where they were residing. On the basis of said report crime is registered against the unknown person. During investigation the involvement of the present applicant along with co-accused is revealed.

3. Learned Counsel for the applicant submitted that on the basis of said set of material, the other co-accused are released on bail. Thus, on the ground of parity, present applicant is also entitled to be released on bail. He further submitted that as far as the involvement of the present applicant in the alleged crime is concerned there is absolutely no material to connect him with the alleged offence. The statements of the witnesses namely Akshay Champatrao Madavi and Akash Gajanan Shende are recorded after five to six days of the incident showing the involvement of the present applicant in the conspiracy. Thus, there is absolutely no material to connect the present applicant with the alleged offence. Now, investigation is completed and charge-sheet is filed, further incarceration of the present applicant is not required.

4. Learned Additional Public Prosecutor strongly opposed the application on the ground that not only the statements of the witnesses showing his involvement in the alleged crime but the incriminating articles and cash amount is also recovered at the instance of the present applicant. Two persons have lost their life in the alleged incident. Considering the gravity of the offence, the application deserves to be rejected.

5. Having heard learned Counsel appearing for the parties and perused the investigation papers. From the statements of Akshay Champatrao Madavi and Akash

Gajanan Shende it revealed that they have witnessed the present applicant along with the other co-accused in one hotel prior to the incident. It also reveals from the statements that the involvement of the present applicant was in hatching a conspiracy. Admittedly, no direct evidence would be available to show the involvement of the present applicant in the conspiracy, and therefore, the circumstances would play a vital role.

6. During the investigation, the Investigating Officer has recorded the memorandum statement of the present applicant. At his instance, the ornaments i.e. silver ornaments, some imitation jewellery and cash amount of Rs.26,000/- is also recovered. After comparing this evidence by considering the role of the other co-accused nothing is recovered from the other co-accused. Thus, the involvement of the present applicant reveals on the basis of the circumstantial evidence. The ground of parity is not available to the present applicant as his role is completely different and the incriminating articles are also recovered at his instance. Considering the gravity of the offence that for obtaining the cash amount and the jewellery, they have caused the death of two persons. In view of that, the application deserves to be rejected.

7. Hence, the application is rejected accordingly.

(URMILA JOSHI-PHALKE, J.)