



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

CRIMINAL APPLICATION (BA) NO. 383 OF 2024

Balaji s/o Pandu Mattami 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. R.M. Daga, counsel for applicant.

Ms. H.N. Prabhu, APP for non-applicant/State.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 02/04/2025.

1. The applicant came to be arrested on 04/08/2022 in connection with Crime No. 41/2022 registered with Police Station, Etapalli, District Gadchiroli for the offence punishable under Sections 302 and 201 read with Section 34 of the Indian Penal Code, 1860.

2. The crime is registered on the basis of a report lodged by the Police Officer, on an allegation that on 22/07/2022, deceased Dilip Raju Barsa got missing. He was searched by the family members at the residence of the relatives and in the village, and as they could not trace him, a missing report was lodged on 30/07/2022. During the preliminary inquiry of the said missing report, co-accused Keshav was arrested, and his confessional statement was recorded. On the basis of his confessional statement, the present applicant is arrested.

3. After registration of the crime and during the investigation, the investigating officer recorded the

memorandum statement of the co-accused- Keshav. On the basis of the information, the dead body of the deceased was found on 06/08/2022. Thereafter, the statements of some of the witnesses are recorded, including the statement of one Ranjana Binay Mandal, Binay Narayan Mandal. They revealed that on 22/07/2022 at about 8.00 a.m., they had seen the present applicant and other co-accused, and the deceased proceeding on a motorcycle, and the hands and legs of the deceased were tied by rope. After completion of the investigation, the charge-sheet is submitted against the present applicant.

4. Heard Mr. R.M. Daga, learned counsel for the applicant, who submitted that the entire case is based on circumstantial evidence, except the circumstance of last seen, no other incriminating material was collected during the investigation, and even no suspicion was raised against the present applicant or the co-accused. During preliminary inquiry, the statement of the co-accused was recorded, which is not admissible. On that basis, the present applicant was arrested. He submitted that there is a long gap between finding of the dead body and the last seen therefore, the intervention of any third person cannot be ruled out. In view of that, further incarceration of the present applicant is not required, and therefore, the applicant be released on bail.

5. The learned APP strongly opposed the said application and submitted that the case rested on the

circumstantial evidence, specifically the fact that the deceased was last seen in the company of the present applicant. In view of the statements of the witnesses, the finding of the dead body at the instance of the information furnished by the co-accused, and the incriminating articles seized at the instance of the co-accused, sufficiently shows the involvement of the present applicant. In view of that, the application deserves to be rejected.

6. After hearing both sides and on perusal of the investigation papers, admittedly the case is based on circumstantial evidence, the only circumstance which appearing against the present applicant is that he was last seen in the company of the deceased. The statements of the witnesses are recorded on 07/08/2022, i.e. after approximately 15 days after lodging of the missing report. Moreover, there is no nexus between the last seen of the deceased with the present applicant and the finding of the dead body. Thus, considering the nature of the evidence and considering the fact that now the investigation is already completed and charge-sheet is already filed, further incarceration of the present applicant is not required, therefore the applicant has made out a case for grant of bail. Accordingly, I proceed to pass the following order:

- a] The criminal application is **allowed**.
- b] The applicant – **Balaji s/o Pandu Mattami** shall be released on bail, in connection with

Crime No. 41/2022 registered with Police Station, Etapalli, District Gadchiroli for the offence punishable under Sections 302 and 201 read with Section 34 of the Indian Penal Code, 1860, on executing P.R. Bond of Rs. 25,000/- with one solvent surety in the like amount.

- c] The applicant shall attend the concerned police station twice in a month on 1st and 15th of every month and the investigating officer shall record his presence.
- d] The applicant shall not leave the jurisdiction of the Gadchiroli District without prior permission of the District Court Gadchiroli.
- e] The applicant shall attend the proceedings before the Sessions Court without seeking any exemption unless there are exceptional circumstances.
- f] The applicant shall not induce, threat or promise any witnesses who are acquainted with the facts of the case.
- g] The applicant shall not enter into the vicinity of Taluka Etapalli, District Gadchiroli till culmination of the trial.

7. The criminal application is **disposed of**.

[URMILA JOSHI-PHALKE, J.]