



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

Criminal Application (BA) No. 734 of 2024

Pradip @ Sonu S/o Nagorao Gawande

Versus

The State of Maharashtra through Police Station Officer, Police Station
Pinjar Tq. Barshitakli, District Akola

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Shri R.M.Daga, Advocate for the applicant.

Shri Ujwal Phasate, APP for the non-applicant/State.

CORAM : G.A.SANAP, J.

DATED : 17th JANUARY, 2025.

This is an application for bail filed by accused no.2, who has been arrested in Crime No. 56 of 2024 registered with Police Station Pinjar, District Akola for the offence punishable under Section 302 read with Section 34 of the Indian Penal Code.

2. Learned advocate for the accused submitted that on 8th February, 2024 at 10 am, he carried his mother to the hospital at Akola. His father - accused no.1 was at the house. Learned advocate further submitted that the accused no.2 was residing separately from the accused no.1 with his family member. Learned

advocate submitted that there is no direct evidence to establish the complicity of the accused no.2 in the crime. It is submitted that father, accused no.1, who was at home after 10 am on 8th February, 2024 till he left for Akola in the afternoon. Learned advocate further submitted that the accused no.2 is an agriculturist. He has two children. It is submitted that considering the role attributed to him and the motive for commission of the crime, his further incarceration is not necessary as well as warranted. The trial may take its own time for completion. Learned advocate further submitted that the deceased was residing with the accused no.1 and his mother. It is submitted that the accused no.2 had nothing to do with the love affairs of the deceased Sandip, with the girl by name Shubhangi Bhagat. Learned advocate submitted that the accused is ready to abide the conditions that may be imposed by the Court.

3. Learned Additional Public Prosecutor submitted that the possibility of the murder of the deceased by the accused no.2 with accused no.1 before he left for Akola on 10 am at 8th February, 2024 cannot be ruled out. It is pointed out that in the postmortem report, the time of the dead was 48 hours to 72 hours. Learned Additional Public Prosecutor submits that this is strong circumstances against both the accused.

Learned Additional Public Prosecutor submits that the case is based on circumstantial evidence and therefore the release of accused no.2 on bail is fraught with the danger of tampering with the prosecution evidence.

4. As far as the merits of the matter are concerned, the same cannot be gone into at this stage. Undisputedly, the deceased was brother of the accused no.2 and son of accused no.1. As per the prosecution, the motive for commission of a crime is the so-called love affairs of the deceased with village girl by name Shubhangi Bhagat. It is the case of the prosecution that Shubhangi Bhagat belongs to Scheduled Caste and therefore the accused and their family were against the marriage of the deceased with the said girl. It is evident that on 8th February, 2024 on account of quarrel between Sandip on the one hand and the accused nos.1 and 2 on the other hand, the mother had fainted. Therefore she was carried to Civil Hospital, Akola. Accused no.2 accompanied with the mother and he returned back on 9th February, 2024 in the afternoon on receipt of the information as to the death of Sandip. It is seen that on perusal of the statements of the witnesses that on 8th February, 2024 from 10 am till the accused no.2 left for Akola in the afternoon, the accused no.1 was alone at the house. Dead body was noticed by

accused no.1, accused no.1 thereupon informed the Police Patil and other villagers. It is seen that from 8th February, 2024 from 10 am till he returned to the village on 9th February, 2024 in the afternoon, the accused no.2 was not at house. Accused no.1 was in the house.

5. The circumstantial evidence compiled in the charge-sheet would show that the prosecution has strong case against the accused no.1. In the facts and circumstances, at this stage, it is not possible to positively conclude that when the deceased died, the accused no.2 was very much involved in the assault. Charge-sheet has been filed. Both the accused have been remanded to judicial custody.

6. The case is now fixed for framing of the charge. The informant is the Police Patil. On the date of incident, accused no.2 was residing separately from the deceased and his father. He has two children. It has come on record that the accused no.2 with his sister was in the Civil Hospital at Akola.

7. In the facts and circumstances, in my view, the application made by the accused no.2 for bail deserves favourable consideration. The apprehension put forth by the learned Additional Public Prosecutor can be taken care of by imposing appropriate conditions.

8. The charge has not yet been framed. The uncertainty of completion of the trial looms large. In view of this the incarceration of the accused no.2 for indefinite period, in the factual situation, may not be necessary and warranted. Hence, the following order.

- i) Criminal application is allowed.
- ii) **Applicant - Pradip @ Sonu S/o Nagorao Gawande** be released on bail in Crime No. 56 of 2024 registered with Police Station Pinjar, District Akola for the offence punishable under Section 302 read with Section 34 of the Indian Penal Code, on his furnishing P.R.Bond in the sum of Rs.15,000/- (Rupees Fifteen Thousand only) with one surety in the like amount.
- iii) The applicant shall not, directly or indirectly, make any inducement or promise to any witness in any manner.
- iv) The applicant shall not tamper with the prosecution evidence.
- v) The applicant shall not pressurize or threaten the prosecution witnesses.
- vi) The applicant shall not enter the village Titwa, Taluka Pinjar, District Akola till completion of the trial.
- vii) The accused no.2 shall extend fullest co-operation to the learned Judge for completion of trial.

9. The Criminal Application stands disposed of accordingly.

[G.A.SANAP, J.]