



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

CRIMINAL APPLICATION (BA) NO.1212 OF 2024

Mahendra s/o Prabhakar Misar

Vs.

State of Maharashtra, through Police Station Officer, Police Station Mouda,
District Nagpur

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

Court's or Judge's orders

Mr. R. M. Daga, Counsel for the applicant.

Mr. C. A. Lokhande, APP for non-applicant/State.

CORAM : URMILA JOSHI-PHALKE, J.

DATED : 14/07/2025

1. By this application, the applicant is seeking bail as he was arrested on 24/08/2023 in connection with Crime No.763/2023 registered with Police Station Mouda, District Nagpur for the offence punishable under Sections 302, 376(2)(I) read with Section 34 of the Indian Penal Code.

2. Learned Counsel for the applicant submitted that the present applicant is arrested merely on suspicion as his truck was found in the vicinity where the alleged incident taken place. He pointed out that the FIR is lodged by Santosh Dinanath Nimje who is the father of the deceased who alleged that on 22.08.2023 he approached to the Police Station as he was informed by the police that his daughter is admitted in the Mayo Hospital

and taking treatment. Therefore, he immediately rushed to the Mayo hospital and seen his daughter who was not in a good condition and unable to communicate. As per his statement, his daughter left the house on 19.08.2023 and not returned back. She was suffering from the mental illness as she is a mentally retarded girl. She was found in Mahalgaon shiwar on Nagpur to Bhandara road in an unconscious condition and brought to the hospital and during treatment she succumbed to the death. After postmortem report, it reveals that cause of death of the deceased is due to the internal injuries sustained by her on the head. The report was lodged against the unknown person. During investigation, it revealed that the victim was mentally retarded girl and she left the house and thereafter she was seen in the vicinity of Navkar Industrial and Logistics Park, Mahalgaon. The CCTV footage shows that she was seen entering into the truck bearing No.MH-20-CT-4041.

3. Learned Counsel submitted that merely because the applicant's truck bearing No.MH-31-CQ-9104 was also parked in the said premises as well as the truck bearing No. MH-20-CT-4041 was also in the said premises is implicated in the present crime. As far as the CCTV footage is concerned, which is only to the extent that the applicant was seen along with the deceased at the point of time. Besides the CCTV footage, the prosecution relied upon the

memorandum statement of the co-accused at whose instance alleged Tommy which was lying in the truck bearing No.MH-20-CT-4041 was discovered. He pointed out that the present applicant was the driver on the said truck. Thus, except this material, there is absolutely no material to connect the present applicant with the alleged offence. Now the investigation is already completed, the trial is not yet commenced, even charges are not yet framed and therefore, the applicant cannot be kept behind bar for an indefinite period.

4. Learned APP strongly opposed the said application and submitted that at the time of incident both trucks were parked near to each other in the vicinity of Navkar Industrial and Logistics Park. The CCTV footage shows that victim was near both the truck and thereafter the victim was found in an injured condition. She also pointed out that there was an association of both the accused. They had a dinner together at the said Logistics Park and thereafter the deceased was found in an injured condition. In view of that, the *prima facie* case is made out against the present applicant, hence, the application deserves to be rejected.

5. On hearing both sides and perusal of the investigation papers from which it reveals that the incriminating truck bearing No.MH-20-CT-4041 was in the possession of the investigating agency from

24.08.2023. On 28.08.2023 the truck was searched by the investigating agency and from the said truck i.e. from the cabin of the truck one black red colour seat cover piece which was lying near the gearbox and some blue bangles broken pieces are seized by the police. As per the investigating agency on 28.08.2023, the co-accused has given a memorandum statement in presence of two panchas at about 2.45 p.m. and same was recorded till 3.25 p.m., thereafter at about 3.26 p.m. to 5.41 p.m. one Tommy was recovered and discovered which was lying in the cabin of the truck bearing No.MH-20-CT-4041. Thus, it is apparent that though the investigating agency was in possession of the said truck since 24.08.2023 and i.e. prior to the memorandum statement of the present applicant, they have searched the vehicle and only bangle pieces and one seat cover piece was seized and they have not seen the Tommy lying there appears to be improbable. The statement recorded by the investigating agency during the investigation of one Sunil Kanoji Aswale who has obtained the photographs of the spot of incident. The statement of the witness also shows that he has seen the victim i.e. deceased in the cabin of truck bearing No.MH-20-CT-4041 i.e. also near the steering and at that time the present applicant was also seen in the said truck. Thus, as far as the present applicant is concerned, there is evidence to the extent that he was seen along with the deceased in the said truck. Except

this last seen evidence there is no other material to connect the present applicant with the alleged offence. Admittedly, now the investigation is completed, charge-sheet is filed and the trial is yet to be commenced. The trial will take its own time for its final disposal. Considering the nature of the evidence, the applicant has made out a case for grant of bail. Accordingly, I proceed to pass following order:

ORDER

(i) The application is allowed.

(ii) The applicant – **Mahendra s/o Prabhakar Misar** shall be released on bail in connection with Crime No.763/2023 registered with Police Station Mouda, District Nagpur for the offence punishable under Sections 302, 376(2)(I) read with Section 34 of the Indian Penal Code, on executing P.R. Bond in the sum of Rs.25,000/- with one solvent surety in the like amount.

(iii) The applicant shall attend the concerned Police Station twice in a month i.e. 1st and 15th day of every month and the Investigating Officer shall record his presence, till culmination of the trial.

(iv) The applicant shall not enter into the vicinity of Dhammadeep Nagar, Police Station Yashodhara Nagar, Nagpur till culmination of the trial.

(v) The applicant shall attend the proceedings before the trial Court without seeking any

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exemption unless there are exceptional circumstances.

(vi) The applicant shall not induce, threat or promise any witnesses who are acquainted with the facts of the case.

The application is disposed of.

(URMILA JOSHI-PHALKE, J.)