

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

Criminal Application [BA] No.33 of 2015

(Ashok Shankar Khobragade

vs.

The State of Maharashtra, through P.S.O. Wadi, District Nagpur)

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Office notes, Office Memoranda of
 Coram, appearances, Court's orders
 or directions and Registrar's orders.

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Court's or Judge's Orders

CORAM : PRASANNA B. VARALE, J.

DATE : JANUARY 28, 2015.

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

The applicant is before this Court seeking his enlargement on bail in connection with Crime No.132/2014 registered at Wadi Police Station, Nagpur initially for the offences punishable under Sections 143, 144, 147, 148, 452, 427, 307 read with Section 149 of the Indian Penal Code, under Section 4 read with Section 25 of the Arms Act and under Section 135 of the Bombay Police Act and subsequently added Section 302, 109, 201, 212 and 120-B of the Indian Penal Code.

The learned Counsel for the applicant, by inviting my attention to the report and other material collected by the Investigating agency, submits that on the basis of those material, the material against the applicant is too weak and the alleged incriminating material is against the other accused persons. He

submits that the applicant was apprehended on 18/07/2014 and since then he is behind the bars. He also submits that as the investigating agency has collected all the relevant material concluded in filing of charge-sheet and the ground of opposition is a weak material in the form of criminal antecedents of the applicant and certain call detail reports. Insofar as the criminal antecedents alleged against the applicant in the nature of Crime No.285/2008 is concerned, the learned Counsel submits that the applicant was accused no.4 in the Sessions Trial No.157/2009 arising out of Crime No.285/2008 and the learned Sessions Judge, Nagpur by judgment and order dated 04/02/2013 acquitted the applicant of the offences alleged against him. Thus the submission was, the ground of opposition holds no water.

Mr. D.B. Patel, the learned A.P.P. vehemently opposes the application and made available the material collected by the investigating agency for perusal of this Court.

Insofar as the F.I.R. is concerned, the victim-injured is one Roshan Kamble. The complainant-informant had an occasional visit in the office of Roshan Kamble. On 12/07/2014, while Roshan and complainant-informant were chatting at about 01:30 p.m. to 01:45 p.m., the informant found 5-6 persons entering in the office of Roshan armed with weapons. One Ajit, who was armed with sword, gave sword blow on the head of Roshan. The accused persons left the office damaging the office

furniture. The complainant, who was inside of the shop, in apprehension rushed to nearby house of Anna Murgan. He informed Anna Murgan about the incident. Thereafter both all them viz. Anna Murgan and the informant-Raghuvir again rushed to the office of Roshan and with the help of other persons shifted Roshan in the hospital. The investigating agency was set in motion. The statements of witnesses were recorded. The material statement of Anna Murgan refers to the other accused. Both these witnesses are not referring to the applicant either about his presence or any active role played by the applicant. The reply filed by the State reveals that the application is opposed on five grounds namely (i) inimical terms of Roshan with the applicant due to some past incident of a complaint made by Roshan against the applicant. There is no material in support of this ground. The other ground namely the conspiracy being hatched with the help of other accused and the applicant, the applicant provided information interlinked with other accused of call details. Now for these two grounds, the only material is of the call detail report. This material only refers to the attempt of establishing the contacts between the applicant and another accused. The report shows that there was no successive attempt to establish the contact on number of occasions. The other material is an incriminating antecedents alleged against the applicant.

The learned Counsel for the applicant placed a copy of judgment and order passed by the learned Sessions Judge acquitting the applicant in sessions trial arising out of Crime No. 285/2008.

Thus, considering the above referred material, I find considerable merit in the submission of the learned Counsel for the applicant that the applicant is behind the bars for more than six months and all the necessary material is collected and concluded in filing the charge-sheet. The learned Counsel for the applicant has made out a case for enlargement of the applicant on bail.

In the result, the application is allowed. The applicant be released on bail on his furnishing P.R. Bond in the sum of Rs.20,000/- (Rupees Twenty Thousand Only) with one or two sureties in the like amount on the following conditions.

- i. The applicant to attend Wadi Police Station, Nagpur, on every second and forth Sunday of the month from 09:00 a.m. to 12:00 noon and maintain a diary of his attendance duly countersigned by the Police Station Officer, till commencement of the trial.
- ii. The applicant shall not tamper with the evidence nor commit any act such as contacting the prosecution witnesses or pressurize them.
- iii. The applicant to submit his residential address and

contact numbers, such as phone/mobiles numbers, to the investigating agency or in case of change.

- iv. In case the applicant is moving out of the area of Wadi Police Station, he shall take permission and inform the concerned Police Station about his visit to other place.

In case of any breach of the conditions by the applicant, the State would be at liberty to move this Court.

Needless to say that these are the observations of the Court while deciding the present bail application and the learned Sessions Judge may not be influenced by these observations while conducting the trial.

The application is disposed of as such.

JUDGE

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