

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

Criminal Application [BA] No.60 of 2015

(Mukesh Bhimrao Meshram

vs.

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

=====

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

=====

Court's or Judge's Orders

Mr. C.R. Thakure, Advocate for the Applicant.

Mr. M.J. Khan, A.P.P. for the Non-Applicant/State.

CORAM : PRASANNA B. VARALE, J.

DATE : APRIL 20, 2015.

Heard the learned Counsel for the applicant and the
learned A.P.P. for the State.

The applicant is before this Court seeking his
enlargement on bail in connection with Crime No.163/2014,
registered at Police Station Kamptee, District Nagpur for the
offences punishable under Sections 302 and 201 read with
Section 34 of the Indian Penal Code.

The report was lodged at the instance of Police Patil
viz. Balwanta Radke. Balwanta Radke stated in his report that on
06/07/2014, he received a phone call from Deputy Sarpanch
Shri Ingale informing that in an agricultural field at place near
New Ajni, a dead body is lying. He immediately rushed to the
spot and found dead body of a person having fair complexion,
approximately aged 40 years, wearing white shirt and brown

trousers, and also found a stone lying near the dead body having blood stains. He immediately referred the matter to Kamptee Police Station. The police personnel from the Kamptee Police Station reached the spot and the report is accordingly lodged. The investigating agency in the process of the investigation, recorded the statement of the witnesses and referred the dead body for conducting autopsy. The postmortem report was received by the agency. The material viz. the apparel wore by the deceased, the stone lying on the spot, nail clippings etc. were forwarded to the lab for receiving the C.A. Report. Accordingly, the report is also received.

With the assistance of the learned Counsel for the applicant, as well as the learned A.P.P., I have gone through the material. The perusal of the postmortem report shows that the probable cause of death is head injury and there were as many as 17 injuries are referred to in the postmortem report. Insofar as the applicant is concerned, the material is in the form of statement of witnesses. These are the witnesses, who are concerned with the restaurant and bar called Sunil Bar. The statement reveals that accused-Rupesh, a notorious criminal, was a frequent visitor to the restaurant and bar. Ajay, whose statement is recorded by the agency, states that as Rupesh was a frequent visitors to his restaurant, he had an acquaintance with Rupesh. The police personnel from Kamptee Police Station

approached him on the date of recording of the statement along with the applicant and a photograph. This witness states that 15 days prior, Rupesh and the person, who was along with the police personnel, and the person, whose photograph was shown to him, had been to the restaurant. They consumed the liquor there. As the person, whose photograph was shown, i.e. the deceased, was making hue and cry under the influence of liquor, Rupesh and his associates took out the deceased of the restaurant and all these three persons left the restaurant riding on a motorcycle. Similar is the version of other witnesses viz. Subhash Besara and Kamleshwar alias Pandit s/o Nandlal Singour.

The learned Counsel for the applicant was justified in submitting that this material is hardly of any consequence to establish a role played by the applicant leaving aside any positive role by the applicant. He was also justified in submitting that this material is as vague as it could be against the applicant. Apart from the method adopted by the investigating agency for identification, the learned A.P.P. though made an attempt to submit that the witnesses have identified the applicant, in my opinion, the ground raised by the learned Counsel for the applicant of the far-fetched proximity of time is sufficient enough to enlarge the applicant on bail.

Considering all these aspects, in my opinion, the learned Counsel for the applicant has made out a case for enlargement of the applicant on bail. The apprehension of the State can be taken care of by imposing certain conditions on the applicant.

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 solvent sureties in the like amount on the following conditions.

- i. The applicant to attend Police Station Kamptee, District Nagpur on every second and forth Sunday of the month between 09:00 a.m. to 12:00 p.m. and maintain diary of his attendance duly countersigned by the Police Station Officer or the Investigating 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.

iv. In case the applicant is moving out of the area of Police Station Kamptee, 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

**sdw*