

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

CRIMINAL APPLICATION (BA) NO. 68 OF 2015
(Sanjay Datta Shinde .v. State of Maharashtra)

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

Court's or Judge's Orders

Shri A.S. Band, Advocate for the applicant.
Shri M.J. Khan, APP for the respondent /State.

CORAM : PRASANNA B. VARALE, J.
06TH AUGUST, 2015.

Heard.

By way of present application, the applicant is before this Court seeking his enlargement on bail in connection with Crime No.256/2014 registered with the Police Station, Wadgaon Road, Yavatmal for the offence punishable under Sections 143, 147, 148, 149, 302 of the Indian Penal Code.

A report is lodged at the instance of the wife of the deceased Smt. Savita Mishra. The sum and substance of the report is that the victim namely Ramnarayan Mishra was carrying out the business of a contractor-ship and was also active in public life. He was associated to one of the political parties. As the husband of the complainant was active in public life, he sought some information under the Right to Information Act. One Vitthal Dhone was carrying a grudge against the husband of the complainant and was making phone calls giving abuses and threats to Ramnarayan. On 23.05.2014, in the evening at about 06:30 p.m., a person of acquaintance informed the complainant that Vitthal Dhone, Jagdish Dandge, Nana Rode and their five to six associates assaulted Ramnarayan and he was admitted in the Civil Hospital. In the hospital itself, Ramnarayan breathed his last. The investigation was carried out on lodgment of the report. Necessary material was collected in the process of investigation namely the statements of the witnesses, recovery of the weapons, recovery of clothes, drawing various panchnamas etc.

The submission of Shri Band, the learned Counsel for

the applicant is that the material collected by the investigating agency shows that the applicant was present on the spot. The learned Counsel by inviting my attention to the statement of an eye witness, submits that the statement of this eye witness is vague in nature and the eye witness only states that the applicant was present on the spot, armed with rod and all the accused persons assaulted Ramnarayan. Shri Band, the learned Counsel further submits that during the pendency of the present application, the said so called eye witness expired. He also submits that the clothes worn by the applicant were forwarded to the Chemical Analyzer and the report reveals that no blood stains were found on those clothes. The learned Counsel then submits that the material collected by the investigating agency shows only recovery of sharp edged weapons and some other weapons from the other accused than the present applicant. Shri Band further submits that the applicant was arrested on 25th May, 2014 and since then he is behind the bars. The submission of the learned Counsel is that the material against the applicant is wholly insufficient to detain the applicant for further period in the custody.

Shri Khan, the learned APP vehemently opposes the application and submits that the deceased was brutally murdered. There were as many as 24 injuries on the person of the deceased.

Though the perusal of the postmortem report shows that the deceased was received 24 injuries, the other material in the form of the statement of the sole eye witness refers to the presence of the applicant and vague statement that he also participated in the assault. No weapon is recovered at the instance of the present applicant. It is not in dispute that the CA report shows no traces of blood stains on the apparels worn by the present applicant. It is not the case of the prosecution that the applicant used any sharp edged weapon. On the contrary, the allegations are that one Vitthal Dhone used Sattur and it was recovered from accused Dhone.

Considering the material, I find merit in the

submission of Shri Band, the learned Counsel for the applicant. There is nothing on record to suggest that the applicant is having any criminal antecedents. In view of the submission of the learned Counsel for the applicant, I am of the opinion that the learned Counsel 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 furnishing PR bond of Rs.25,000/- (rupees twenty-five thousand only) with one surety in the like amount, on the following conditions.

- (i) The applicant to cooperate with the investigating agency and attend the Police Station, Wadgaon Road, Yavatmal on first and third Sunday of every month between 09:00 a.m. and 12:00 noon till commencement of the trial and as and when called by the IO.
- (ii) The applicant to maintain the diary of his attendance duly countersigned by the Police Station Officer of the concerned Police Station.
- (iii) The applicant shall not tamper with the evidence nor commit any act such as contacting the prosecution witnesses or pressurize them.
- (iv) The applicant to submit his residential address and his contact numbers such as phone/mobile numbers to the investigating agency.
- (v) In case the applicant is moving out of the area of Police Station, Wadgaon Road, he shall inform the Police Station about his visit to other place.

In case of breach of these conditions, the prosecution agency to take necessary steps in accordance with the provisions of law.

JUDGE

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