

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

Criminal Application [BA] No.111 of 2015

(Dhruwas Shantaram Sonwane

vs.

The State of Maharashtra, through P.S.O. Nagbhid, District Chandrapur)

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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 : MARCH 24, 2015.

Heard Mr. S.M. Puranik, the learned Counsel for the applicant.

The applicant is before this Court seeking his enlargement on bail in connection with Crime No.72/2014, registered at Police Station Nagbhid, District Chandrapur for the offences punishable under Sections 302, 307, 447, 506-II and 504 read with Section 34 of the Indian Penal Code.

The learned Counsel for the applicant invited my attention to the report lodged at the instance of Smt. Kalpana Meshram. He in his detailed submissions submits that that assuming the report reflecting the events occurred on that day as it is, though not admitting, the story of the informant is the applicants, who were the neighbours, and her brother-in-law Vilas had a grudge against this applicant. The learned Counsel submits that the brother-in-law of the informant-

Kalpana was carrying an impression that the applicants are the root cause for the matrimonial dispute between the couple i.e. Vilas and his wife-Kalpana. He then submits that as per the report, on the day of the incident, Vilas was chatting, rather he was uttering to self, and these applicants enraged and rushed to Vilas. As it was the usual feature, Kalpana and her family neglected the quarrel. Thereafter, at about 08:30 p.m., Kalpana, her husband and her daughter came near to the compound of the house and found that accused Dhruwas Sonwane (the applicant before this Court), Navnath Sonwane and Devanand Sonwane were beating Vilas. Devanand was carrying stick, Navnath was carrying an axe and the applicant-Dhruwas was giving fist blows. The learned Counsel for the applicant submits that the role attributed by the informant Kalpana to the applicant is of fist blows. Neither any weapon was being carried out by the applicant nor he was the lead player. It is the submission of the learned Counsel that even if the sequence of events as revealed by Kalpana is seen, initially the accused were having abuses and altercation with Vilas and when the husband of Kalpana viz. Kailash intervened, he was subjected to assault, is the story. Thus, this fact clearly reflects that there was neither any intention nor any motive of this applicant. Probably it is a case of passion running high in

the spur of movement. The learned Counsel for the applicant, therefore, submits that considering the role attributed to the applicant and the fact that the applicant is behind the bar for more than six months and as all the necessary material is collected by the investigating agency concluding in filing of the charge-sheet, the applicant be released on bail.

Mr. A.H. Laddhad, the learned A.P.P. vehemently opposes the application. He submits that the accused persons used axe and stick. He further submits that the postmortem report shows that the victim received severe injuries. He further submits that the investigating agency also recorded the statement of the witnesses.

On the backdrop of the submissions of the learned Counsel for the applicant and the learned A.P.P., I have gone through the material. Though the material clearly reflects the presence of the applicant and his participation, it shows that the applicant gave fist blows, where as the role of the other accused namely Navnath and Devanand was more serious and more active. The report and the other material in the form of statements of witnesses show the involvement of applicant to the effect that the applicant gave fist blows. The reply filed by the State shows that the investigation is concluded and there is recovery of an axe and a stick from the other accused.

Considering the above referred material, in my opinion, the learned Counsel for the applicant has made out a case. 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 sureties in the like amount on the following conditions.

- i. The applicant to attend Police Station Nagbhid, District Chandrapur on every second and forth Sunday of the month from 09:00 a.m. to 12:00 noon 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 or in case of change.
- iv. In case the applicant is moving out of the area of Nagpur City 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

**sdw*