

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

Criminal Application [BA] No.120 of 2015

(Pavankumar Satyapalsing Thakur
vs.

The State of Maharashtra, through P.S.O. Badnera, District Amravati)

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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

Mr. T.U. Tathod, Advocate for the Applicant.
Mr. S.S. Dohifode, A.P.P. for the Non-Applicant/State.

CORAM : PRASANNA B. VARALE, J.
DATE : MARCH 17, 2015.

Heard.

The applicant is before this Court seeking his enlargement on bail in connection with Crime No.328/2014, registered at Badnera Police Station, District Amravati for the offences punishable under Sections 302, 397 and 201 of the Indian Penal Code.

The learned Counsel for the applicant submits that the victim-Evran Shah was the uncle of the applicant. He submits that a report was lodged at the instance of one Sayyad Jamin Sayyad Noor informing that dead body of Evran Shah was lying in the bathroom of one Bari Maulana. On receiving the information, the police staff rushed to the spot. The dead body was forwarded to Irvin Hospital for conducting the postmortem. In the postmortem, it was opined by the Doctor that, the cause

of death is 'Subaraurorcel Hemorrhage due to head injury'. In the enquiry and investigation conducted by the investigating agency, it reveals that the victim, who was dealing in sale and purchase of the cattle, received sum of Rs.10,000/- from one trader viz. Suresh Yadav and Rs.10,000/- from another trader Jitendra Gawande as well as Rs.6000/- and Rs.5000/- from Salim Khan. Thus, it was the initial Impression of the agency that some unknown persons giving blow with weapon on the head of the victim committed murder of the victim and ran away with the amount. The investigating agency then arrived at a conclusion that one Abdul Rashid Qureshi and the applicant are the accused persons. The agency in the process of investigation, seized a stone and blood stained clothes from the accused persons. The applicant had approached the learned Sessions Judge seeking his enlargement on bail along with other accused Abdul Rashid, and application of the applicant was rejected on the ground that the incriminating material was seized at the instance of these accused persons. It was the submission of the learned Counsel for the applicant that there is absolutely no material against the applicant except seizure of the blood stained clothes that too after lapse of considerable time. He further submits that in absence of the C.A. Report, this so called incriminating material in the form of seizure of blood stained clothes is inconsequential in establishing any role played by the

applicant. The learned Counsel further submits that the applicant himself gave information to Sayyad Noor that his uncle is lying on the floor. The learned Counsel further submits that the applicant made necessary arrangement for shifting dead body of his uncle from Amravati to the native place of his uncle by arranging ambulance service. The learned Counsel invited my attention to the copy of receipt placed on record. On the backdrop of this material, it was the submission of the learned Counsel that the material is hardly sufficient to detain the applicant for further period.

The learned A.P.P. opposes the application. The learned A.P.P. submits that there was a transaction between the applicant and the victim. He further submits that one witness viz. Ramashankar Oza refers to the fact of applicant in company of the victim and other accused Abdul Rashid. The learned A.P.P. also refers to the statement of one Rauf Khan to submit that there was a money transaction between the victim and the applicant. On perusal of the statement of Ramashankar Oza, it reveals that this witness states that on 07/12/2014 at about 12:00 O'clock in the night, he woke up for easing and found that victim Evran Shah @ Chachu, Abdul Rashid and the applicant were talking in loud tone. He then returned back to his room. Now considering this statement, this witness only refers to some conversation of the applicant, another accused and the victim in

a loud voice. It is not even the case of that witness of any quarrel or exchange of heated words between the applicant and the victim. The statement of Rauf Khan refers to some money transaction between himself and the victim on account of the contribution named and styled as 'Bhisi'. He states that out of that Bhisi, he was to pay an amount of Rs.1,00,000/- to victim Chachu and there was one sale transaction of cattle. It was his submission that out of the sale of the cattle transaction, he was to pay an amount of Rs.73,000/- to Chachu. Thus, even considering this statement, it only reveals to the transaction between Rauf Khan and the victim-Chachu. There is no material to suggest that there was some money transaction between the victim and the applicant.

Taking into consideration the above referred material, 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 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 sureties in the like amount on the following conditions.

- i. The applicant to attend Badnera Police Station, District Amravati, 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 Badnera 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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