

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

Criminal Application [BA] No.146 of 2015

(Shivaji Pandurang Nasre

vs.

The State of Maharashtra, through P.S.O. Jalalkheda, Tahsil Narkhed, 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. R.M. Patwardhan, Advocate for the Applicant.
Mr. R.S. Nayak, A.P.P. for the Non-Applciant/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.122/2014,
registered at Police Station Jalalkheda, District Nagpur for the
offences punishable under Section 302 of the Indian Penal Code.

With the assistance of the learned Counsel for the
applicant and the learned A.P.P., I have gone through the
material. Perused the report lodged at the instance of one
Indubai Nasre. In the report, she alleges that on 28/10/2014,
she found the quarrel was going on between the applicant and
her husband on the issue of supply of water to the agricultural
field. She states that the applicant picked up a stone lying nearby
and thrashed the head of her husband with the same causing a

bleeding injury. She states that the victim was initially referred to Narkhed Civil Hospital by arranging an auto-rickshaw. After providing the first aid, he was shifted to Mayo Hospital, Nagpur. He was discharged from Mayo Hospital after 5 to 7 days and thereafter again he was shifted to Super Specialty Hospital, Nagpur. He was under treatment at Super Specialty Hospital, Nagpur from 25/11/2014 and on 10/12/2014, at about 6:00 O'clock in the morning, he breath last. She states that she had been to the police station on 28/10/2014, and as she was not possessing the papers of the medical treatment, the report came to be lodged on 10/12/2014.

The submission of the learned Counsel for the applicant is, this belated report and the changing circumstances of the informant at various places in the report itself shows that the report is an attempt to implicate the applicant on account of some dispute over agricultural land.

I have gone through the material collected by the investigating agency. Though in the report, Indubai states that victim was firstly referred to Narkhed Civil Hospital, then to Mayo Hospital, Nagpur and then to Super Specialty Hospital, Nagpur, the material collected by the investigating agency shows that no serious attempt is made by the agency to collect the material from Narkhed Civil Hospital. From the material, it clearly reveals that an entry was recorded by the A.S.I. and the

Medical Officer, Rural Hospital, Narkhed issued the certificate that the patient was brought to the hospital on 28/10/2014 at about 05:00 p.m., and the patient was provided first aid and then was shifted to Nagpur Medical College. There is no material collected by the investigating agency so as to show, what was the history given at Narkhed Civil Hospital while the primary medical health assistance was provided to the victim. There is also no material collected from the Mayo Hospital, Nagpur. It only reveals that the investigating agency acted in somewhat casual manner.

Thus, there was merit in the submission of the learned Counsel for the applicant that what reveals on record is only in the form of allegation against the applicant in the report, but there is no other positive material to show the role played by the applicant, as alleged in the report. There is also merit in the submission of the learned Counsel for the applicant that even as per the report, the incident took place on 28/10/2014 and for considerable period of two months, the victim was referred to the various hospitals and as such the material is insufficient to show that the death is only because of the act of the applicant. The submission is that, there is a possibility of not receiving the proper medical treatment in time and the complications developed in the process of shifting the victim from one place to another place and as such it is difficult to attract the allegations

against the applicant under Section 302 of the Indian penal Code.

Considering all these aspects and on the backdrop of the 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 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 Jalalkheda, Tahsil Narkhed, 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 Jalalkheda, 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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