

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

Criminal Application (BA) No. 178 of 2015
Vinod Suresh Dhumale vs. The State of Maharashtra

Notes, Office Memoranda of

Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's
Orders.

CORAM : PRASANNA B. VARALE, J
DATE : 28.4.2015

Heard Mr. N.B.Jawade, learned counsel for the applicant and Mr. P.V.Bhoyar, learned APP for the State.

The applicant is before this Court seeking his enlargement on bail in connection with the Crime No. 110 of 2014 registered with the Police Station Ramdaspath, Akola for the offences punishable under sections 143, 147, 148, 149, 307, 120(B) of the Indian Penal Code and under Sections 3 and 4 read Section 25 of the Arms Act.

The applicant was arrested on 7.12.2014 and since then he is behind the bars. Mr. Jawade, the learned counsel in his detailed submissions, by inviting my attention to the documents placed on record, submitted that the material collected by the Investigating Agency is wholly insufficient to

connect the applicant with any positive role in the said offence. Mr. Jawade submitted that though the report was lodged at the instance of one Ajay Ramteke, who is an eye witness to the incident and it is stated in his report that while he along with one Fajlu Pahelwan and Rasulbhai were proceeding to Guljarpura area in one auto, fire was opened at the auto-rickshaw. The auto-rickshaw was chased by four motor-cyclists. When the complainant and other persons made an attempt to flee away from the spot, they were encircled by the accused persons. Mr. Jawade submits that neither in the report which was lodged on 11.7.2014 nor in the supplementary statement recorded of the complainant, there is any reference of the present applicant. Mr. Jawade submits that an attempt is made by the Investigating Agency to show the entry of the applicant on the scene through the statement of Sachin Borkar. The said statement is recorded after 1½ months of the incident. Mr. Jawade then submitted that even the said statement of Sachin vaguely refers to the allegation of participation of the said applicant in the conspiracy. Mr. Jawade submits that on the backdrop of such vague material, the prosecution can hardly establish any case against the applicant and there is a remote possibility of establishing any

case against the applicant. Thus, the detention of the applicant in the custody for further period is not at all required.

The learned APP opposes the application.

I have gone through the material placed on record. On perusal of the report, it reveals that the informant/complainant gives a detailed account of the incident. It reveals that the complainant had a acquaintance with those assailants/ accused. Thus, considering the names of the accused and the role played by each of the accused, Mr. Jawade rightly submitted that the only material against the applicant is the statement recorded at a belated stage of one Sachin. This statement of Sachin refers to the presence of the applicant on 8.7.2014 at the residence of Sachin and asking him to accompany towards the market. Then in the evening, the applicant received a phone call from Santosh and the applicant informed Santosh that Sachin is also accompanying him. Thus, Sachin and the applicant then proceeded to the office of the political party. Thereafter, the other persons gathered nearby the open ground of a School and thereafter they consumed liquor. While Santosh and other persons were consuming liquor, Santosh made a query asking his associates who will give first blow and one of his associates

Dhananjay replied that he would be the first person who will give a blow. Thereafter, they proceeded further and Sachin left the place and returned back to his house. With this statement, the prosecution alleges that the applicant is one of those accused giving effect to the plan hatched by him. As rightly submitted by Mr. Jawade that this statement is wholly insufficient in establishing any case against the applicant and if the statement is to be considered, in the said statement Sachin states that the applicant accompanied with other accused persons who left the spot to give effect to the plan hatched. Mr. Jawade further submits that on the backdrop of the statement if other material is perused, none of the witnesses even the informant/complainant states about the presence of the applicant on the spot or any role played by the applicant. Thus, the statement of Sachin leads the investigating agency nowhere and is only statement of vague nature. On considering with the material with the submissions of the learned counsel for the applicant, in my opinion the counsel for the applicant has made out a case for bail.

The application is allowed. The applicant be released on bail on furnishing PR bond of Rs. 20,000/- (rupees twenty thousand only) with one surety in the like amount on

the following conditions.

a) The applicant to cooperate with the investigating agency and to attend the Police Station, Ramdaspath, Akola on 2nd and 4th Saturday on every month between 9.00 a.m. to 12 noon till commencement of the trial and as and when called by the investigating agency.

b) The applicant shall not tamper with the prosecution evidence nor commit any act such as contacting the prosecution witnesses or pressurize them.

c) The applicant to submit his residential address and his contact numbers such as phone/ mobile numbers to the investigating agency.

d) In case the applicant is moving out of the area of the Police Station, Ramdaspath, Akola, he shall inform the concerned 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.

The application is allowed and disposed of.

JUDGE

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