

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

Criminal Application (BA) No.321 of 2015

Akash s/o Madhukar Jenekar.

-Vrs.-

The State of Maharashtra through Police station Officer, Bhadrawati P.S.,
Dist. Chandrapur. .

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

Court's or Judge's orders.

Mr. Anuj D Hazare, learned counsel for applicant.

Mr. Vinod Thakre, learned APP for respondent.

CORAM : V.M. DESHPANDE, J.

DATED : 28th AUGUST, 2015

This is an application filed on behalf of applicant Akash Madhukar Jenekar who is arrested in connection with Crime No. 127/2014 registered at Police Station Bhadrawati of District Chandrapur for the offence punishable under section 302 read with Section 34 of the Indian Penal Code and under Section 3 (2) (v) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act 1989.

2. Heard Shri A.D. Hazare, learned counsel for the applicant and Shri Vinod Thakre, learned Additional Public Prosecutor for the State.

3. The investigation agency has already completed its entire investigation and charge sheet is filed before the court of law.

4. After filing of the charge sheet, this is the first bail

application before this court by the present applicant.

5. The father of the present applicant by name Madhukar is already released on bail by this court.

6. The first information report is lodged by Ganpat Meshram in respect of homicidal death of Vitthal Meshram. The first information report is lodged on 7.6.2014. First informer is not the eye witness.

7. In the prosecution case there are three eye witnesses. However, on having closure look to their statements recorded by the Investigating Officer under section 161 of the Code of Criminal Procedure, eye witness Govind and eye witness Digambar are not attributing any role to the present applicant. Leave apart the role, these eye witnesses are not even mentioning the presence of the present applicant while they witnessed the occurrence.

8. The eye witness Dinesh is attributing a role against the present applicant. His statement would reveal that the present applicant assaulted by means of fist and kick blows. The post-mortem report shows that deceased died of dangerous head injury and grievous shoulder joint injury. Column no. 17 of post-mortem report shows three injuries. Those are in the nature of fracture of frontal bone and also the fracture on the shoulder. The weapon, according to prosecution, was seized from the spot of incident itself and it is 'ubhari' that is a heavy wooden log. The injuries which are shown in the post-mortem report are clearly attributable to such weapon.

Eye witness Dinesh is completely silent about using

of the said weapon by the present applicant.

9. Further, one plastic chappal is seized from the spot of incident. According to the prosecution, it belongs to the present applicant. The second chappal is seized from the house of the present applicant. However, the said recovery was not consequence of the discovery at the behest of the present applicant.

10. Looking to such nature of the accusation against the present applicant and the investigation is over, in my view, further custodial presence is not warranted. That leads me to pass following order.

ORDER.

1] The application is allowed.

2] The applicant Akash Madhukar Jenekar is released on bail on he executing PR bond of Rs.25,000/- with two solvent sureties in the like amount in connection with Crime No. 127/2014 registered with Police Station, Bhadrawati, for the offence punishable under section 302 read with section 34 of the Indian Penal Code. Bail before the trial court.

3] The applicant shall attend Police Station Bhadravawati once in a fortnight preferably on Sunday in between 3 to 5 p.m. till the culmination of the trial.

4] With these directions, application is allowed and disposed of.

JUDGE