

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

Criminal Application (BA) No. 470 of 2015

(Dhiraj Jageshwar Gajbhiye Vs. State of Maharashtra through P.S.O., Kanhan
P.S. Dist. Nagpur)

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

Court's or Judge's order

Ms. D. K. Gawali, Advocate for applicant
Shri S. S. Doifode, APP for the State/non-applicant

CORAM : V. M. DESHPANDE, J.

DATE : 20-8-2015.

Heard Ms. D. K. Gawali, learned counsel for the applicant and Shri S. S. Doifode, learned Additional Public Prosecutor for the State.

The applicant is arrested in connection with Crime No. 99/14 registered with Police Station Kanhan, District Nagpur for the offences punishable under Sections 143, 147, 148, 149, 120-B, 302 and 201 of the Indian Penal Code and Sections 4 and 25 of the Arms Act. The investigation is over. Charge-sheet is already filed before the Court of law.

There are total 7 accused persons in the present prosecution case. Three accused persons, namely, Bhimrao, Rahul and Vilas are released on bail.

The First Information Report is lodged by Smt. Vithabai Neware, mother of deceased. The First Information Report is lodged on 16-8-2014. The date of occurrence of offence was 15-8-2014 to 16-8-2014. The First Information Report is registered

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against the unknown persons.

Only circumstance that is pressed into service against the present applicant is the statement of memorandum recorded under Section 27 of the Indian Evidence Act and recovery of weapon and clothes and except this, there is no other incriminating circumstances against the present applicant is the submission of learned counsel for the applicant which is not at all disputed by the learned Additional Public Prosecutor in his fairness.

The recovery panchanama would show that the place which is shown by the applicant as a place whereat he concealed the weapon and clothes is a open place and same is not under the exclusive possession of the applicant.

Thus *prima facie* much importance cannot be attached to the recovery.

If the said recovery is kept aside then there is no other material against the applicant.

In that view, the applicant needs to be released on bail.

ORDER

- (i) The application is allowed.
- (ii) The applicant Dhiraj Jageshwar Gajbhiye be released on bail on executing P.R. bond in the sum of Rs. 25,000/- with one solvent surety in the like amount in connection with Crime No. 99/14 registered with Police Station Kanhan, District Nagpur for the offences punishable under Sections 143, 147, 148, 149, 120-B, 302 and 201 of the

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Indian Penal Code and Sections 4 and 25 of the Arms Act.

(iii) Bail before the trial Court.

(iv) The applicant shall attend the Police Station, Kanhan, District Nagpur once in a fortnight, preferably, on Thursday between 2.00 p.m. to 5.00 p.m. till the charge is framed by the learned trial Court.

(v) After framing of charge, the applicant shall abide by the further condition that may be imposed upon him by the trial Court.

(vi) The applicant shall attend the Police Station and trial Court and shall extend his full cooperation for expeditious disposal of the trial.

(vii) If it is noticed by the Investigating Officer that the applicant is tampering the prosecution case and not following the conditions imposed upon him, it shall be open to the Investigating officer to file the application for cancellation of bail.

With these observations, the application is disposed of.

JUDGE

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