

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

CRIMINAL APPLICATION (APPA) NO. 606 OF 2013

IN

CRIMINAL APPEAL NO. 426 OF 2013

(Arun s/o Namdeorao Korle vs. State of Maharashtra thr. PSO, PS, Ner, District - Yavatmal)

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

Court's or Judge's orders

**CORAM : B.P. DHARMADHIKARI &
V.M. DESHPANDE, JJ.
NOVEMBER 21, 2015.**

By the present application, the applicant is seeking suspension of substantive jail sentence and for his release on bail.

Heard Shri Walthare, learned counsel for the applicant and Shri Bhoyar, learned APP for the respondent.

The learned counsel for the applicant has submitted that the alleged eye witness PW-2 – Sanjay is a tutored witness and he cannot be relied upon. He further submits that the learned Judge has not considered the evidence of Defence Witness – Haridas. He submitted that the Chemical Analyser's report does not reflect the blood group of the blood on the clothes of the present applicant/ accused and, therefore, according to him, it is a fit case wherein this Court should exercise the discretion.

In the prosecution case, there is an eye witness, who is examined as PW-2. He is Sanjay. Though it is the submission of the learned counsel for

the applicant that this witness is a tutored one, however, on going through his evidence in detail, it does not reflect so. Further, merely because the blood group of the blood which was noticed on the clothes of the accused is not determined, that cannot be the reason to hold at least while considering the application for bail that the applicant is not the author of the injury to which the deceased Satish succumbed.

According to the learned counsel for the applicant, on the basis of defence version, the incident took place in an accident.

We are afraid that such a statement can be considered at the stage while considering the application for bail. The applicant was not on bail during the course of the trial. Overall view of the prosecution case, prima facie, shows involvement of the present applicant.

In that view of the matter, Criminal application is rejected. The Registry to place the Criminal Appeal for final hearing as per its seniority.

JUDGE

JUDGE

*GS.