

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

Criminal Application [BA] No.720 of 2014

(Sachin Suresh Dongre

vs.

The State of Maharashtra, through P.S.O., Yavatmal [City])

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

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Court's or Judge's Orders

CORAM : PRASANNA B. VARALE, J.

DATE : JANUARY 14, 2015.

Heard Mr. R.M. Daga, the learned Counsel for the applicant and Mr. P.V. Bhoyar, the learned A.P.P. for the non-applicant/State.

The applicant is before this Court seeking his enlargement on bail in connection with Crime No.293/2014, registered at Police Station Yavatmal (City) for the offences punishable under Sections 147, 148, 302 read with Section 149 and Section 120-B of the Indian Penal Code along with Section 3 and 4 read with Section 25 of the Arms Act.

The report was lodged at Police Station Yavatmal (City) on 20/05/2014 at the instance of one Jyoti Bansod. The story of the informant/complainant in brief can be stated as, on 20th May, 2014, her husband left the house with his friends on motorbike towards Meena Bazar and asked his wife Jyoti to join him after some time with his friend Sachin Wankhede. At about

09:00 p.m., she was informed through neighbour Mahendra Meshram about a telephonic call from Babu Wasnik. On attending that phone, she was informed that there is a quarrel took place in the area of Mahatma Fule Square, wherein her husband is involved. She immediately left her house and proceeded with Sachin Wankhede. On reaching the spot, she found people gathered there. She further found one Ritesh Bawiskar alias Balli was giving successive blows with knife over her husband. She also states that the applicant Sachin Dongare and other persons were also assaulting her husband. She further stated that Vijay Dhule and Raja were carrying weapons like pistol. She raised hue and cry. Ritesh and his associates fled away from the spot on raising hue and cry. Though an attempt was made to shift his husband in the Government Hospital immediately, before any medical assistance was provided, it was declared that the husband of the complainant Jyoti died instantaneous death. It is further stated in the report that along with the other assailants, the present applicant was also carrying an enmity with her husband.

The learned Counsel for the applicant submits that on the very next date of the lodgement of the report i.e. on 21st May, 2014, the applicant was arrested and since then he is behind the bars. He further submits that the only role attributed to the present applicant of his presence on the spot is allegedly

holding hands of the victim, so as to facilitate the assailants to lead assault. He further submits that the investigating agency concluded the evidence and by completing all the formalities filed the charge-sheet. He further submits that though the applicant approached the learned Sessions Judge seeking his enlargement on bail, the same is rejected on the ground of *prima facie* evidence against the applicant of his complicity and possibility of tampering with the prosecution evidence. He also submits that the alleged complicity of the present applicant is to the effect of his presence on the spot and holding the hands. He further submits that the statements recorded by the investigating agency give different version of each of the witnesses claiming to be the eye-witnesses of the incident. He further submits that the complainant, who claims to be an eye-witness and present on the spot i.e. the wife of the victim, in her immediate disclosure is silent on the allegation of holding hands by the present applicant. He further submits that the theory of holding hands of the victim by the present applicant is the developed version subsequent to the arrest of the applicant reflected in the statement recorded on 22nd May, 2014. He then submits that on the backdrop of the different version of the so called eye-witnesses including the complainant raised an element of doubt about the genuinity and participation of the present applicant. It is further submitted that looking by any angle to this material,

the material against the applicant is too weak to connect the applicant in the alleged commission of crime. It is also submitted that the applicant is behind the bars for more than seven months. His further submission is, it will take considerable time in conclusion of the trial and as such keeping the applicant behind the bars for further period on the backdrop of such weak material is as good as a pre-trial punishment to the present applicant.

The learned A.P.P. vehemently opposes the application and submits that the material collected against the applicant clearly shows his involvement and participation in the act of holding hands of the victims. The learned A.P.P. made available the charge-sheet for my perusal.

On perusal of the material collected by the investigating agency in the form of charge-sheet, it reveals that though there is a reference of presence of the applicant and his participation in holding the hand, there is also variance in the statement of the witnesses. There is also considerable merits in the submission of the learned Counsel for the applicant that when the report was lodged at the instance of the wife of the victim and as it was an immediate disclosure of the incident, it is unjustifiable of the silence in the version of the complainant in respect of participation of the present applicant.

Considering the above referred submissions of the learned Counsel for the applicant, I am of the view that the learned Counsel for the applicant has made out a case for enlargement of the applicant on bail. 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 Yavatmal (City), District Yavatmal, on every second and forth Sunday of the month from 09:00 a.m. to 12:00 noon and maintain diary of his attendance duly countersigned by the Police Station 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, in case of change, to the investigating agency.
- iv. In case the applicants are moving out of the area of the Police Station Yavatmal (City), 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

**sdw*