

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

Criminal Application [BA] No.910 of 2014

(Shamsher Ali s/o Ramjan Ali vs. State of Maharashtra, through P.S.O, Nandanvan, Nagpur)

Office 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 : JANUARY 19, 2015.

Heard Mr. Parag Bezalwar, the learned Counsel for the applicant and Mr. A.H. Laddhad, the learned A.P.P. for the non-applicant/State.

By the present application, the applicant is before this Court seeking his enlargement on bail in connection with Crime No.453/2013, registered at Nandanvan Police Station, Nagpur for the offences punishable under Sections 326, 307 read with Section 34 of the Indian Penal Code and Section 142 of the Bombay Police Act.

At the very outset, the learned Counsel for the applicant fairly submits that this is the second attempt of the applicant seeking enlargement on bail. Initially, though the applicant had approached this Court, at that time, the charge-sheet was yet to file. The applicant prayed for withdrawal of the application and the application was allowed to be withdrawn. The learned Counsel for the applicant submits that the charge-sheet is now filed. He further submits that the applicant is

behind the bars for a period of one year. The learned Counsel also made an attempt to submit that there is no specific material to say that the applicant led attack on vital part of the body of the victim. He further submits that the applicant is ready to keep himself away from the city of Nagpur. On this submission, the learned Counsel prays for enlargement of the applicant on bail.

The learned A.P.P. vehemently opposes the application.

With the assistance of the learned Counsel for the applicant and the learned A.P.P., I have gone through the material placed on record. The copy of the report placed on record reveals that on 25th of December, 2013, the victim was returning from a pan shop. It is stated that the applicant was having a grudge against the informant over the property dispute. It is further stated that the applicant and one Gaffar rushed the victim. The applicant, who was armed with a sword, attacked on the vital part of the victim i.e. head. When the victim made an attempt to escape from the place removing his vehicle there, the applicant followed him on a motorcycle and again led an attack on the head of the victim. The victim run towards his house and then with his family members approached the police station. The victim was then provided medical assistance. On receiving the report, the investigating agency was set in motion.

The investigation concluded in collection of the material evidence viz. medical evidence, statement of the witnesses etc.

The learned Counsel for the applicant made an attempt to submit that the injury certificate collected by the investigating officer is vague on the aspect of situs, where the injury caused. I am unable to accept the submission of the learned Counsel for the applicant, as the remark column of the injury certificate itself shows '*CT head done – CT head shows linear fracture involving outer cortex of right parietal bone as described. Hence the injury is grievous*'. The CT Head Investigation Report collected by the investigating agency from the Department of Radiodiagnosis shows *a linear fracture noted involving outer cortex of right parietal bone in scalp*. The opinion further reads as '*linear fracture involving outer cortex of right parietal bone in scalp as described*'. Thus, the medical evidence is clear about the part of the body of the victim-injured. The statements recorded by the investigating agency spell out the sequences of the event, presence of the applicant armed with weapon sword and act of the applicant causing serious injury to the victim. The papers of the investigation further reveal that the applicant was externed under order dated 09/07/2013 for a period of two years from Nagpur city and the area of Nagpur (Rural). Thus, the applicant, who was externed from Nagpur city by order dated

09/07/2013, indulged himself in an act of giving a sword blow to the victim on 28/12/2013 i.e. during the period of externment. The order of externment passed against the applicant refers to a list of the offences registered against him including the offence under Section 302 of the Indian Penal Code in the year 1988.

Considering the above referred material, I find considerable merits in the submission of the learned A.P.P. that it is an apprehension, if the applicant is enlarged on bail, he may commit some untoward act. The application thus being meritless, deserves to be rejected and the same is rejected.

JUDGE

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