

Criminal Application No. 5311 of 2016

Bhanudas @ Nana Tarachand Pawar,
Age : 27 years,
Occupation : Labourer,
R/o. Mhasne, Taluka : Parner,
District : Ahmednagar. .. Applicant.

The State of Maharashtra,
Through Police Station, Supa,
Taluka : Parner,
District : Ahmednagar. .. Respondent.

Mr. A.S. Shinde, Addl. Public Prosecutor, for the respondent.

DATE : 17TH OCTOBER 2016

The applicant / accused in Crime No. I-65/2016 registered at Supa Police Station, Taluka Parner, District Ahmednagar, for offences punishable under Sections 302, 143, 147, 148 and 149 of the Indian Penal Code, by this application, is seeking his release on bail after filing of the charge-sheet.

2. Heard the learned Counsel appearing for the applicant / accused as well as the learned Addl. Public Prosecutor appearing for respondent / State.

3. The learned Addl. Public Prosecutor opposed the application by contending that version of the informant is corroborated by statement of his daughter Mayuri, who is an eye witness to the incident in question. According to the learned Addl. Public Prosecutor, the applicant was member of an unlawful assembly having common object and in prosecution of that common object of the unlawful assembly, he assaulted the deceased by means of a stick.

4. Perused the charge-sheet. The crime in question is registered on the basis of report lodged by Dilip - son of deceased Vishwanath Shelar. Post mortem report shows that Vishwanath Shelar died homicidal death because of head injury. According to the prosecution case, Vishwanath Shelar, an old person of 65 years of age, used to sleep in the vicinity of his house in the afternoon. On 11.05.2016, children of applicant Bhanudas @ Nana Pawar and co-accused Bhaskar Pawar had teased him while sleeping and therefore Vishwanath Shelar scolded those children. On the next day i.e. 12.05.2016, according to the prosecution case, there

was wordy duel between co-accused Tarachand Pawar and Vishwanath Shelar (since deceased). Thereafter as per version of the prosecution, accused persons including present applicant Nana Pawar killed Vishwanath Shelar. Co-accused Bhaskar Pawar is stated to have assaulted the deceased by means of an axe, whereas present applicant Bhanudas @ Nana Pawar assaulted him by means of a stick. Bhaskar Pawar and the present applicant are real brothers. It is further averred that their father Tarachand Pawar and other members of their family also assaulted the deceased.

5. The prosecution case is resting upon version of sole eye witness namely Mayuri Shelar. She is a child witness. Such witnesses are prone to tutoring. Their evidence is required to be assessed with due care and caution. If one peruses the post mortem report, then it is seen that apart from only one contused lacerated wound on head of deceased Vishwanath Shelar, there was no other injury on his dead body. Therefore, role of the applicant in assaulting the deceased by means of stick is not free from doubt. The contused lacerated wound is certainly attributable to the blow by an axe and the author is stated to be co-accused Bhaskar Pawar.

6. In this view of the matter, further pre-trial detention of the applicant is not warranted.

7. Hence, I pass the following order :-

(a) The Application is allowed.

(b) The applicant / accused, in the above crime, be released on bail on his executing P.R. Bond in the sum of Rs. 15,000/- and on furnishing one or more solvent sureties of the like amount.

(c) As conditions of this order, the applicant shall abide by the following directives :-

(i) The applicant shall not, directly or indirectly, make any inducement, threat or promise to any persons acquainted with the facts of the case so as to dissuade them from disclosing such facts either to the Court or to any police officer.

(ii) The applicant shall not tamper with the prosecution evidence in any manner and shall cooperate the learned trial Judge in expeditious disposal of the trial against him.

(iii) The applicant shall not repeat commission of similar type of offences in future.

(d) The Application stands disposed of in the above terms.

(A.M. BADAR)
JUDGE

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