

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

CRIMINAL APPLICATION (BA) NO.112/2016

(Suryakant @ Suraj s/o Gajanan Lolge ..vs.. The State of Maharashtra, through PSO
P. S. Sonegaon, Nagpur, Tq. Dist. Nagpur)

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

Court's or Judge's orders.

Mr. A. B. Moon, Advocate for applicant.
Mrs. Rashi Deshpande, A.P.P. for non applicant-State.

CORAM : A. B. CHAUDHARI, J.

DATE : MARCH 7, 2016

This application has been placed before this Court in view of the following order made by the Coordinate Bench of this Court.

“Heard Shri A. B. Moon, Advocate for the applicant and Shri M. J. Khan, Additional Public Prosecutor for the non-applicant.

The applicant is arrested in crime registered against him by the non-applicant for the offences punishable under Section 395 of the Indian penal Code. Sections 4, 25 of the Indian Arms Act and Section 135 of the Maharashtra Police Act.

Shri M.J. Khan, Additional Public Prosecutor has pointed out the order passed by this Court on 18-12-2015 in Criminal Application (BA) No.928/2015 permitting the applicant to withdraw the application filed by him praying that directions be given to release him on bail. It is submitted that

the present application will also have to be placed before the same learned Judge.

Shri A. B. moon, Advocate for the applicant has submitted that Criminal Application No.928/2015 was filed before the charge-sheet was filed and withdrawn before filing of the charge-sheet and the present application is filed after the charge-sheet is filed. It is submitted that there are charges in circumstances and therefore, this application can be taken up by this Court.

The order dated 18-12-2015 is passed by Shri A. B. Chaudhari, J. In my view, it would be appropriate that the present application be placed before the same learned Judge.

Office to take steps accordingly.”

Heard learned counsel for the applicant. He submitted that all other 23 accused who have been prosecuted along with applicant have been released on bail either by this Court or by the trial Court and, therefore, there is no need for continuing the applicant to be in custody. He submits that though the present application is the second bail application and filed after filing of the charge-sheet, it is maintainable because, the earlier bail application was allowed to be withdrawn and it was not dismissed on merit.

Without entering into the controversy, I have gone through the contents of the charge-sheet. It is clear that the applicant was leader of the gang of 23 persons which attacked the complainant but the complainant ran away and could save his life. All these persons went with the deadly weapons and the applicant had a sword in his hand.

Mr. Moon, learned counsel for the applicant, submits that as a matter of fact, there is a civil dispute and on the report lodged by father of the applicant, instead of taking action against the complainant and other accused, police took action against the applicant. However, it is the matter to be thrashed out at the trial and could be the defence of the applicant. The applicant is said to be in jail from September-2015. There are several offences registered against the applicant. Following is the chart showing the crimes registered against the applicant.

Sr. No	Crime No.	Sections	Police Station
1	323/2011	324, 34 of IPC	Pratap Nagar, Nagpur
2	201/200	349, 143, 294, 506, 323 of IPC	Pratap Nagar, Nagpur
3	165/2010	143, 336, 427 IPC	Pratap Nagar, Nagpur
4	3066/2010	160 of IPC	Pratap Nagar, Nagpur
5	3381/2009	143, 136 Mumbai Police Act	Pratap Nagar, Nagpur
6	330/2014	376 (1), 450, 506 of IPC	Pratap Nagar, Nagpur
7	473/2014	353, 506 of IPC	Pratap Nagar, Nagpur

8.	3526/2011	U/s 3	Pratap Nagar, Nagpur
9	3592/2011	U/s 3	Pratap Nagar, Nagpur
10	35/2011	U/s 3	Pratap Nagar, Nagpur
11	106/2015	324, 504 of IPC	Pratap Nagar, Nagpur
12	473/2014	353, 506 IPC	Pratap Nagar, Nagpur
13	3057/2015	7, 12, 13 (1) (d), Sub Section 13 (2) of Prevention of Corruption Act	Pratap Nagar, Nagpur
14	121/2015	324 IPC	Pratap Nagar, Nagpur
15	162/2014	195 (c), 385, 34 of IPC	Pratap Nagar, Nagpur

In view of above, the applicant cannot be released on bail looking to the pendency of the criminal cases and his repeated involvement in the criminal offences. However, the trial will have to be expedited since the applicant is in jail from July-2015.

In that view of the matter, following order is passed.

ORDER

- (i) Criminal Application No.112/2016 is rejected.
- (ii) The concerned Sessions Judge is directed to commence and complete the trial within a period of six months from today.

JUDGE