

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

CRIMINAL APPLICATION (BA) 338 OF 2016

(Raju @ Kailash s/o Rupchand Sarwan Vs. The State of Maharashtra)

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

Court's or Judge's orders

Mr. R. R. Vyas, Advocate for the applicant.
Mr. A. M. Deshpande, A.P.P. for the State.

CORAM : S. B. SHUKRE, J.
DATED : 23 JUNE, 2016

Heard.

This application has been strongly opposed by the learned A.P.P. for the State contending that the applicant is main accused at whose behest heinous crime of murder has been committed by other co-accused. He submits that this applicant had issued a threat on 02/01/2016 to the deceased as well as his friend that he will take revenge upon the deceased and his friend and had already instructed his associates to eliminate all of them and immediately day after, the deceased was brutally killed by the co-accused of the applicant. He, therefore, submits that the applicant should not be released on bail.

According to the learned Counsel for the applicant, the applicant has been involved in this case only by virtue of the theory of conspiracy and there is absolutely no material from which prima facie inference can be drawn regarding prior meeting of mind with the other co-accused.

The charge-sheet has been filed and no purpose would be served by keeping the accused behind the bar.

In the facts and circumstance of the case, as seen from the FIR and the statements of the material witnesses, I find that there is substance in the argument of the learned Counsel for the applicant. It is true that there has been a threat issued by this applicant to eliminate the deceased and his friend prior to the incident. But, the fact remains that the assault was carried out by some different persons and then a question would arise as to what role has been played by this applicant in execution of the threat. At this stage, it will not be appropriate to make any comment in attempting an answer to this question. Suffice it to say that after filing of the charge-sheet and on the basis of whatever evidence that is available on record at this stage, it may not be appropriate to keep the applicant behind the bar for any longer period of time. There are no criminal antecedents to the applicant.

In view of the above, I am inclined to grant this application.

The application is allowed.

It is directed that the applicant be released on bail on his furnishing a P. R. Bond in the sum of Rs.25,000/- together with one solvent surety in the like amount on the conditions that the applicant shall reside at a place at least 25 kilometers away from Khamgaon city and shall not enter

Khamgaon city till the prosecution is over except on the dates fixed in the matter for the purpose of attending the Court, shall not influence the prosecution witnesses in any manner and shall submit his new address to the police station, Khamgaon city as well as the trial Court together with his contact number.

JUDGE