

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

Criminal Application [BA] No.474 of 2016

(Sonal Gogula s/o Shankar Gogula

vs.

State of Maharashtra, through P.S.O. Chandrapur [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

Shri R.M. Daga, Advocate for the Applicant.

Mrs. Mayuri Deshmukh, A.P.P. for the Non-Applicant/State.

CORAM : S.B. SHUKRE, J.

DATE : 5th JULY, 2016.

Heard the learned Counsel for the applicant and the
 learned A.P.P. for the non-applicant/State.

The learned Counsel for the applicant has invited
 my attention to the F.I.R. dated 27/10/2015 as well as
 supplementary statement of the complainant, dated 31/10/2015
 in order to support his argument that the so called identification
 of the applicant made by the complainant cannot be believed at
 this stage.

The learned A.P.P. submits that the doubt raised by
 the applicant in respect of the identification parade can be
 resolved only on the merits of the case and that at this stage,
 there is some circumstantial evidence in the nature of seizure of
 blood stained shirt from the present applicant, which would
 indicate *prima facie* involvement of the applicant in this case.

It is seen from the F.I.R. as well as the

supplementary statement, dated 31/10/2015 that the complainant is not sure about the assailants. She has made three persons in a very specific manner in the complaint, dated 27/10/2015 as assailants. She has also given the reason for identifying these assailants in the complaint, but in the supplementary statement, dated 31/10/2015, the complainant, for the reasons best known to her, changes her version and states that the assailants named in the F.I.R. were not the persons, who caused death of Rahul. She does not explain anything about the reason given by her in the F.I.R. dated 27/10/2015 regarding her being able to identify the assailants. There is no further statement available on record from which it could be said that the complainant has stated anything against the present applicant. So it is only the identification of the present applicant done by the complainant in the identification parade, which is the reason for implicating this applicant in the present crime. However, as stated earlier, there is no basis found elsewhere for identifying the present applicant. The uncle of the deceased is also one of the eye-witnesses and in his statement, he refers to four unknown persons as assailants. However, in order to enable him to identify those unknown persons, no identification parade was held. So far as the seizure of blood stained clothes is concerned, the learned Counsel for the applicant states that this applicant was arrested on

01/11/2015 and the seizure of the clothes allegedly having blood stains was done on 04/11/2013 and these were the clothes which were continued to be worn by the applicant since the date of his arrest. The charge-sheet has been filed.

In the circumstances, I am of the opinion that the applicant is now entitled to be released on bail. Hence the following order :

1. The application is allowed.
2. It is directed that the applicant be released on bail on his furnishing a P.R. Bond in the sum of Rs.20,000/- together with one solvent surety in the like sum on the condition that the applicant shall attend the Court dates regularly, shall co-operate with the trial Court in expeditious disposal of the case and shall not tamper with the prosecution witnesses.
3. The application is disposed of as such.

JUDGE

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