

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

CRIMINAL APPLICATION (BA) NO. 587 OF 2016

(Javedkhan Majirkhan 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

Shri H. M. Mohta, Advocate for the applicant.
Smt. M. H. Deshmukh, A.P.P. for the State.

CORAM : S. B. SHUKRE, J.
DATED : 08 AUGUST, 2016

Heard.

Learned Counsel for the applicant has invited my attention to the orders passed by the Sessions Court granting bail to the co-accused Mohsin and Nadim. On perusal of these orders, it is seen that the Sessions Court has made observation that prima facie, the offence of murder punishable under Section 302 of the Indian Penal Code is not likely to be attracted against the co-accused. The reasons being that there was no previous enmity between two co-accused and the deceased and that the overt acts performed by them in the assault jointly made by the present applicant and the said co-accused were distinguishable from the overt act committed by the present applicant. On such a distinction that the Sessions Court denied bail to the present applicant while his co-accused were granted bail.

On going through the case diary, particularly the

F.I.R., I do not think that any such distinguishing features could be found in the prosecution case as against the said two co-accused and the present applicant as would enable me to say that the co-accused could be prima facie brought out of pale of Section 302 of the Indian Penal Code. On the contrary, one can see that before the assault, the co-accused had, prima facie, joined hands with the present applicant and even issued threats of dire consequences to the deceased and thereafter, jointly assaulted the deceased. The prosecution has not sought cancellation of bail granted to the co-accused so far. A charge sheet has already been filed. In these circumstances, I am of the view that even this applicant is entitled to be released on bail on the ground of parity. Hence, the order.:

The application is allowed and it is directed that the applicant be released on bail on his executing a P. R. Bond in the sum of Rs.35,000/- together with one solvent surety in the like amount on the conditions that the applicant shall regularly attend the Court on the dates fixed in the case, shall cooperate with the trial Court in expeditious trial and shall not tamper with the prosecution witnesses.

JUDGE

CERTIFICATE

“I certify that this order uploaded is a true and correct
copy of original signed order.”

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