

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

CRIMINAL APPLICATION (BA) NO. 767 OF 2016

(Nihal Kailash Zade Vs. The State of Maharashtra)

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

Court's or Judge's orders

Shri R. M. Daga, Advocate for the applicant.
Shri T. A. Mirza, A.P.P. for the State.

CORAM : S. B. SHUKRE, J.

DATED : SEPTEMBER 15, 2016

Heard learned Counsel for the applicant and the learned
A.P.P. for the State.

This applicant and the co-accused are facing prosecution
for the offences punishable under Sections 302, 324, 120-B read with
Section 34 of the Indian Penal Code. This applicant had been
arrested on 31/5/2014. The trial is yet to commence. There is
allegation specifically made against this applicant to the effect that in
the quarrel, which took place in between Naved and Wasim on the
one hand and this applicant and Sarang on the other, this applicant
took out the knife and gave its blow to the deceased Naved. It is not
in dispute that this is a case wherein only single blow of knife is
given. The facts and circumstances of the case show that, so far as
this applicant is concerned, he was not present at the spot since
inception and he was also not involved in calling Naved and Wasim
to the spot, but, rather they were called apparently by another

person. Then, there was also some sort of scuffle between Naved and Wasim on the one hand and this applicant and co-accused on the other before the knife blow was actually given. The postmortem report reserved the opinion regarding probable cause of death. The opinion has been reserved since 20/5/2014. It is stated by learned Counsel for the applicant that there is still no change in the situation and the opinion continues to remain in reserved state. The trial has not yet commenced. With such nature of evidence and uncertainty in the matter, it would be unfair to keep this applicant in jail for indefinite period of time. In fact, in the situation, a pro-active role was to be put forth by the trial Court so that the interest of the prosecution as well as rights of the accused are well served and protected. Be that as it may, in the facts and circumstances of this case, this applicant deserves to be granted bail. Hence, the order.

The application is allowed and 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 amount on the conditions that the applicant shall attend the Court proceedings on the dates fixed in the matter, shall cooperate with the Court in expeditious disposal of the case 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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