

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

Criminal Application [APPP] No.1226 of 2016
in
Criminal Application [BA] No.679 of 2016

(Ravi Shankar Chaubey

vs.

State of Maharashtra, through P.S. Ramdas Peth, Akola)

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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 U.J. Deshpande, Advocate of the Intervenor/Complainant.
Shri Anil Mardikar, Sr. Advocate with Shri N.R. Tekade, Advocate for the Applicant.
Shri N.R. Patil, A.P.P. for the Non-Applicant/State.

CORAM : S.B. SHUKRE, J.
DATE : 14th SEPTEMBER, 2016.

Heard.

For the reasons stated in the application, the application is allowed and leave is granted to assist the prosecution.

The application is disposed of.

Criminal Application [BA] No.679/2016:-

Heard Shri Anil Mardikar, learned Senior Counsel for the applicant and Shri N.R. Patil, learned A.P.P. for the State, who is assisted by Shri U.J. Deshpande, learned Counsel for the complainant/intervenor.

This application has been opposed by the learned A.P.P. contending that there is some indirect evidence connecting this applicant with the murder of the deceased – Jayantilal. He places reliance upon Section 27 recovery made at

the instance of the applicant, which is of the mobile handset of the deceased. He also submits that the C.D.Rs. disclose that at the relevant time, this applicant was in touch with the other co-accused and located at the spot near the house of the deceased.

According to the learned Senior Counsel for the applicant, the charge-sheet has been filed and this is all, the prosecution has come out with against the present applicant. He submits that there is no evidence showing that this applicant was lastly seen in the company of the deceased. Therefore, he submits that in the absence of the material link forming the complete chain, it could not be said that there is substance in the allegations made against the present applicant.

The perusal of the charge-sheet does show that there are missing links in the chain of evidence collected against the present applicant. These links are important and one of them is the applicant having been lastly seen in the company of the deceased. There is also no evidence *prima facie* showing that this applicant was present in the house of the deceased before or after the crime or at the time when the crime was committed. No doubt, there is a discovery of a mobile handset at the instance of the present applicant in pursuance of Section 27 of the Indian Evidence Act and the mobile handset was of the deceased, this circumstance, *de hors* the other circumstances, would not directly *prima facie* connect the applicant with the

crime alleged against him. There has to be some more material, which could have been in the nature as discussed earlier, but it is missing in this case. Then, the C.D.Rs. cannot also be considered as *prima facie* material showing the culpability of the applicant, unless the important links are found out and they have some or other connection with the present applicant.

The charge-sheet has been filed and with the kind of this evidence collected against this applicant, I do not think that the applicant deserves to be kept in jail for any longer period of time.

The application is, therefore, allowed. 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 conditions that he shall attend the Court proceedings regularly on the dates fixed in the matter, shall cooperate with the Court in expeditious disposal of the case and shall not tamper with or influence the prosecution witnesses in any manner.

The application is disposed of in the aforesaid terms.

JUDGE

*sdw

C E R T I F I C A T E

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

Uploaded by: S.D. Waghmare
P.A. to the Hon'ble Judge.

Uploaded on : 15/09/2016