

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

Criminal Appeal No.349 of 2016

(Pentayya Buchayya Bedke

vs.

The State of Maharashtra, through P.S.O. Sironcha, District Gadchiroli)

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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

CORAM : S.B. SHUKRE, J.
DATE : 20th SEPTEMBER, 2016.

Heard Shri R.R. Vyas, learned Counsel for the
appellant.

Issue notice to the respondent.

Shri N.R. Patil, learned A.P.P. waives notice on
behalf of the State.

Admit.

Call for record and proceedings.

Criminal Application [APPA] No.614/2016 :-

Heard the learned Counsel for the applicant.

Issue notice to the respondent.

The learned A.P.P. waives notice on behalf of the
State.

The appeal has been admitted. The evidence of
the victim of crime PW-3 Chhaya, *prima facie*, does not
disclose that the assailant was the present appellant.

Admittedly, when the incident took place, darkness was prevailing as it being the time of 08:00 in the night of the month of July, 2011. While, the Investigation Officer says that knife has been recovered at the instance of the applicant, the evidence of the Doctor discloses that he had given his opinion in respect of this knife, on being informed that the knife was recovered from the spot of incident. There is also evidence of the son of the complainant PW-6 Suraj, who admits that his mother regained consciousness on the next day of the incident. The incident took place on 03/07/2011, but the report has been lodged about after 10 days on 14/07/2011. The evidence of PW-4 Bapu, the husband of the victim shows that he heard the shouts of her wife that someone was assaulting her. That means, *prima facie*, the victim was not aware of the name or the identity of the assailant. PW-4 Bapu has also stated that he had seen the accused running from the courtyard of his house with knife in his hand, but as stated earlier, there is a doubt about the place and the person from where or whom the knife has been recovered. Thus, an arguable case is made out by the appellant. The applicant was on bail all along. Therefore, I am of the view that the applicant would be entitled to be released on bail by suspending his substantive sentence of imprisonment.

Accordingly, it is directed that the substantive sentence of imprisonment of the applicant be suspended till final disposal of the appeal and till that time, 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 the applicant shall attend this Court as and when required and shall pay the fine amount, if not paid so far.

The application is disposed of.

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 : 21/09/2016