

IN THE HIGH COURT OF JUDICATURE AT BOMBAY:
NAGPUR BENCH : NAGPUR
Criminal Application [BA] No.994 of 2016
[Atul Ruprao Singham Vs. State of Mah.]

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

Court's or Judge's orders

Mr. R. M. Daga, Adv., for the Applicant.
Mr. Palshikar, APP for respondent.

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CORAM : P.N. DESHMUKH, J.

DATE : 21st December, 2016

Applicant, who is accused in Crime No. 128/16 registered with Chandur Bazar Police Station, Distt. Amravati, for offences under Sections 302 and 201 read with Section 34 of Indian Penal Code, has filed this application for grant of bail.

Learned counsel for applicant submitted that from the entire charge-sheet, it is clear that there is nothing to establish involvement of applicant as an assailant of deceased Sachin, who was found dead in front of his house on 3rd May, 2016 with multiple injuries on his body. Learned counsel further contended that a report is lodged by deceased's maternal cousin brother, namely Atul Kokate, suspecting the applicant as the assailant, since, prior to the incident, there was one criminal case pending between the applicant and

deceased in which deceased was accused facing a charge under Section 307, Indian Penal Code. It is, thus, contended that except for above material, there are no eye-witnesses to the incident, nor it is the case of the prosecution that deceased was seen in the company of applicant immediately prior to his death. It is, therefore, submitted that application be allowed.

Learned APP has opposed the application as per reply, and has submitted that one day prior to incident, i.e., 2nd May, 2016, in the evening, there was a quarrel between deceased and the applicant which fact was learnt by the complainant - Atul and due to such quarrel, the applicant committed the murder of deceased on the following day.

In view of the contents of report as aforesaid and suspicion raised by the complainant - Atul against the applicant since the applicant is alleged to have picked up a quarrel with deceased on the previous evening, on a specific query to learned APP, it is informed that there are no statements on record in relation to any such incident alleged to have taken place in the evening of 2nd May, 2016 near Tompe College. Thus, there is no reason for the complainant to suspect the applicant as an assailant of deceased Sachin.

Admittedly, there are no eye-witnesses to the incident, nor the case of the prosecution is based on the

theory of 'last seen' as already mentioned above. The involvement of the applicant, as per prosecution, is only because of recovery of a knife at the instance of applicant and of clothes by co-accused under Section 27 of Indian Evidence Act. However, considering the fact that there is no substantial evidence against the applicant, mere recovery of a knife at his instance is of no consequence, though the said weapon is stated to be discovered by the applicant from the almirah in his house.

Moreover, the co-accused - Roshan is already released on bail by this Court.

Though, according to prosecution, it is found that there are as many as eight cases pending against the applicant which relate to the period from 2012 to 2015 for the offences under Sections 324, 326 and 363, Indian Penal Code, and rest under the provisions of Bombay Prohibition Act, care can be taken to protect the interest of prosecution by imposing suitable conditions while allowing the application as per order below:-

[a] Application is allowed.

[b] The applicant shall be released on bail on his executing a Personal Bond in the sum of Rs. 20,000-00 [rupees twenty thousand only]

with one surety in the like amount.

- [c]** While on bail and pending trial, the applicant shall not enter the territorial limits of Chandur Bazar Taluka, Distt. Amravati, and shall mark his presence with the the concerned Police Station within whose jurisdiction he would be residing, on first day of each such month.
- [d]** On the applicant's release on bail, he shall forthwith submit to the concerned Police Station a proof of his address within whose jurisdiction and where he proposes to stay, and in the event of change of address in future, shall inform the same to such Police Station.

Judge