

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

CRIMINAL APPLICATION (BA) NO.70 OF 2017

Roshan s/o Sukhdeo Dongare

..VS..

The State of Maharashtra, through P.S.O. Kotwali, Nagpur

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

Court's or Judge's Order

Shri Lubesh Meshram, Counsel for the applicant.
Shri H.R. Dhumale, Addl.P.P. for the non-applicant/State.

CORAM : P.N. DESHMUKH, J.
DATED : FEBRUARY 16, 2017.

The accused involved in Crime No.506 of
2016 registered under Sections 324 and 302 of the
Indian Penal Code has filed this application for bail.

Heard learned counsel for the applicant and
learned Additional Public Prosecutor for the non-
applicant/State.

It is submitted on behalf of applicant that
investigation is complete and charge-sheet is filed and
that according to the case of the prosecution, applicant
is alleged to have given single blow upon deceased by
small knife in the nail cutter on his abdomen due to
which he died while under treatment after five days of
the incident.

Learned counsel for the applicant has submitted that from the documents filed with the charge-sheet it does not establish that applicant has attempted to commit murder of deceased who in fact was friend and has, therefore, contended that as applicant has no criminal antecedents, he be released on bail on imposing suitable conditions.

Learned Additional Public Prosecutor has opposed the application as per its reply on record, however, did not dispute the fact of case of the prosecution involving applicant to have caused single injury upon deceased on his abdomen.

The F.I.R. reveals that on 8.6.2016 deceased met applicant to whom applicant asked to offer him liquor as complainant had already consumed, upon which complainant said that he was not having money. At the same time, applicant removed bunch of keys from his pocket having therein one small knife and gave a blow in the abdomen of deceased due to which he sustained bleeding injuries.

Perusal of injury report establishes fact of deceased having sustained one injury on abdomen which is certified to be stab injury. As such, it is found that deceased has sustained single injury. The arrest panchanama would reveal that at the time of arrest of applicant he was in possession of knife in nail cutter

admeasuring two inches in length and half inch in width which came to be seized. The postmortem note reveals that cause of death of deceased is due to stab injury on his abdomen. Perusal of statement of Raju reveals that though he is not an eyewitness of the incident, deceased made immediate disclosure to him involving applicant to have committed assault on his abdomen by knife

Having considered available evidence against applicant as aforesaid, it goes without saying that applicant has no intention to cause murder of deceased as the weapon used is a knife which is normally found in nail cutter and it is no case of the prosecution that there are multiple stab injures caused by applicant.

In that view of the matter, it is *prima facie* found that the case of the prosecution on trial may fall for the lesser offence than the offence of murder.

Considering above stated facts and as there are no criminal antecedents of applicant, application is liable to be allowed, as per order below:

The criminal application is allowed.

The applicant shall be released on bail on his executing P.R. Bond in the sum of Rs.50,000/- with one surety in the like amount.

Applicant shall attend Kotwali Police Station, District Nagpur, without fail, once in three

months on first day of each such month, pending Trial.

Learned Trial Court shall not get influenced by the observations above and shall independently evaluate the evidence at the time of Trial.

JUDGE

!! BRW !!

C E R T I F I C A T E

I certify that this Order/Judgment uploaded is a true and correct copy of original signed Order.

Uploaded by : Bhushan R.Wankhede.
(Personal Assistant)

Uploaded on :- 17/2/2017

...../-