

FARAD CONTINUATION SHEET
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR.

CRIMINAL APPLICATION (BA) NO.73 OF 2017.

Rohitashkumar @ Gautaskumar Khajansingh Baghel and anr.

..VS..

The State of Mah.P.S.O.P.S. Badnera, Distt.Amravati.

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

Court's or Judge's orders

Mr.V.L.Navlani, Adv. for the applicants.
 Mr.I.J.Damle, APP for the State.

CORAM : P.N. DESHMUKH, J.

DATE : 7th MARCH, 2017.

1. This application is filed for grant of bail by accused involved in Crime No.297 of 2016, registered at Police Station Badnera, Distt.Amravati for the offence punishable under Section 302, read with Section 34 of the Indian Penal Code.

2. Heard learned counsel for the applicants and learned Additional Public Prosecutor for the State. Perused the affidavit-in-reply.

3. It is submitted on behalf of applicants that only role which is attributed to applicants is of their committing assault on deceased by kick and fist blows and that co-accused Kishansingh, who is attributed with assault on head of deceased, is already released on bail by this Court vide order passed in Criminal Application (BA) No.925 of 2016, noting that there is nothing on

record to establish as to who is author of injury sustained by deceased on his head which proved to be fatal. In the circumstances, it is submitted that as investigation is complete and charge-sheet is filed, there is no purpose in keeping applicants behind bars. It is thus, prayed that application be allowed by imposing suitable conditions.

4. Learned Additional Public Prosecutor opposed the application as per reply filed on record and has contended that role attributed to applicant no.2 Rameshwar, apart from his giving kick blows, is that he tied hands of deceased and thereafter he was assaulted by accused and thus contended that application be rejected as there is direct evidence against the applicants.

5. Record reveals that report is lodged by one Nilesh Petkar, Manager of the K.M.Refinery Ltd., situated within the jurisdiction of Badnera Police Station, informing that on 10th May, 2016 at 7.00 a.m., Security Guard of K.M.Refinery Pvt. Ltd. gave telephonic information that one unknown person was found lying in dead condition in the Refinery premises and accordingly, on the basis of information supplied by Manager, A.D. was registered and investigated. During the course of investigation, on recording statement of Sunil Charde, Security Guard, it is revealed that in the night at 2.15 a.m. one person who was mentally challenged entered in the Refinery premises who was assaulted by co-accused Kishansingh Baghel by stick, while applicant no.2 Rameshwar Kashyap after tying hands of deceased

gave him kick blows. It is further found that role attributed to applicant no.1 Rohitashkumar is of assaulting deceased by kick blows while applicant no.2 Rameshwar tied hands of deceased who was thereafter assaulted by accused. As such, from the statement of an eye witness as well as report lodged by Sunil Charde only involvement of applicant no.1 is by way of committing assault by kick blows and applicant no.2 tying hands of deceased before which he was assaulted by co-accused Kishansingh by kick blows. Admittedly, co-accused Kishansingh is released on bail by this Court as there is nothing to establish as to on what part of body of deceased stick blow was given and also noting that there are no statements on record establishing assault by said co-accused Kishansingh on head of deceased though according to the postmortem report, deceased is stated to have sustained one surface injury on head causing fracture of skull which is certified to be cause of death.

Considering the facts as aforesaid and role attributed to applicants as above, and also considering the fact that the co-accused Kishansingh is already released on bail and the case of applicants is on higher footing than co-accused Kishansingh, following order is passed.

Applicants Rohitashkumar @ Gautaskumar Khajansingh Baghel and Rameshwar Radhe Kashyap shall be released on bail on his executing P.R. bond in the sum of Rs.50,000/- each with one local surety each in the like amount.

While on bail, applicants shall reside at Badnera or Amravati pending trial.

Applicants shall mark their attendance with Police

Station within whose jurisdiction they would prefer to stay pending trial on the first day of each month, initially for six months and thereafter on the alternate month pending trial.

Applicants shall furnish proof of their residential address to concerned Police Station and shall update the same in the event of any change therein.

In addition to above, applicants shall mark their presence with Police Station, Badnera on first day of every three months.

Criminal application is accordingly allowed.

JUDGE

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