

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

CRIMINAL APPLICATION (BA) NO.95 OF 2017

Sheikh Irshad s/o Sk. Israel

..VS..

State of Maharashtra, through Police Station Officer, Police Station Achalpur City,
District Amravati

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

Court's or Judge's Order

Shri P.V. Navlani, Counsel for the applicant.
 Shri S.S. Doifode, Addl.P.P. for the non-applicant/State.

CORAM : P.N. DESHMUKH, J.
DATED : FEBRUARY 23, 2017.

This application is filed by co-accused involved in Crime No.161 of 2016 registered for the offences punishable under Sections 302, 307, 294, and 506 read with Section 34 of the Indian Penal Code.

Heard learned counsel for the applicant and learned Additional Public Prosecutor.

It is submitted on behalf of applicant that as per report only role attributed to applicant is of his committing assault on deceased Sk. Eliaz wald Ashfaq Sk. Ismail by kick blows. It is further submitted similar is the statement of alleged eyewitness Anwar and thus has submitted that in view of limited role attributed to applicant and since as per postmortem report deceased is found stated to have sustained stab wounds and incised wound which are certified to be cause of his

death, applicant be released on bail as investigation is completed, charge is filed, and applicant is in jail since 1.6.2016 by imposing suitable conditions.

Learned Additional Public Prosecutor opposed the application as per its reply on record and has submitted that as per the contents of report though applicant is attributed to have assaulted deceased by kick blow, he has assaulted after deceased was assaulted by dagger by co-accused and as such share common intention with co-accused to commit murderous assault on deceased and, therefore, application is prayed to be rejected.

Perusal of documents filed with the charge-sheet reveals that on 30.5.2016 quarrel took place between complainant and Sk. Irfhan wald Sk. Israil and co-accused Irphan Khan wald Ismail Khan on the issue of washing truck. On the same day, in the evening, when complainant along with deceased were proceeding to home, said accused along with Sk. Ejaj and applicant intercepted them and started abusing complainant and deceased when co-accused Sk. Irfhan committed assault upon deceased by dagger which struck on his hand when applicant is stated to have given kick blow to deceased and co-accused Sk. Irfhan committed assault by dagger in his chest due to which he fell down and was then again assaulted by co-accused Sk. Irfhan.

Similar is the statement, as admitted by learned Additional Public Prosecutor, of eyewitness Anwa. In view of contents of these documents, it is thus found only role attributed to applicant is of his giving kick blow to deceased and thus no injury as stated in postmortem report can be attributed to applicant.

In view of facts as aforesaid and since investigation is complete, application is liable to be allowed as per order below:

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.

While on bail, applicant shall attend Police Station Achalpur City, District Amravati quarterly on the first day of each such month.

The applicant shall submit proof of his residence with the investigating officer and shall update the same in the event of change in future.

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 :- 24/2/2017