

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

**CRIMINAL APPLICATION (BA) NO.101 OF 2017**

**Sandip @ Dassu s/o Puranlal Yadao**

**..VS..**

**The State of Maharashtra, through Police Station Officer, Police Station Gondia**  
**(City), District Gondia**

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

Court's or Judge's Order

Shri R.M. Daga, Counsel for the Applicant.

Shri S.A. Ashirgade, Addl.P.P. for the Non-applicant/State.

**CORAM : P.N. DESHMUKH, J.**

**DATED : FEBRUARY 24, 2017.**

One of the accused in Crime No.113 of 2015 registered for the offences punishable under Sections 302 and 120(B) read with Section 34 of the Indian Penal Code and Section 3(2) of The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 and Section 3/25 of the Arms Act has filed this application for bail.

Learned counsel for the applicant has contended that applicant, having knowledge of his name being shown absconding in the charge-sheet filed in this crime, has on his own surrendered. It is further contended that only role, which has been attributed to applicant, is about his making available one pistol involved in this crime by purchasing it from co-accused Shekhar @ Khati, which is used by main accused

Shahrukh in the commission of murder of deceased Chedilal. It is thus contended that in view of limited role of applicant as aforesaid who on his own had surrendered, application be allowed as co-accused Shekhar @ Khati is already released on bail by this Court by its order dated 7.10.2016 in Criminal Application No.696 of 2016.

Learned Additional Public Prosecutor has opposed application contending that offence punishable under Section 120 of the Indian Penal Code is added in the charge-sheet and applicant is a main conspirator as for commission of murder of Chedilal he by purchasing pistol from co-accused Shekhar made it available to co-accused Shahrukh who by using such weapon opened fire upon Chedilal. It is further contended that applicant was absconding and even proclamation was issued against him and, therefore, there is possibility of applicant fleeing from justice if he is released on bail. The application is, therefore, prayed to be rejected.

In the light of submissions advanced as aforesaid, from the reply it is found that role attributed to applicant is that he has purchased pistol from Amgaon from co-accused Shekhar and taking trial of said pistol by firing one round made it available to co-accused Shahrukh who according to prosecution has opened fire on deceased Chedilal. This Court while considering application for bail of co-accused Shekhar

by its order as aforesaid, had *prima facie* observed that role of said co-accused may not go beyond supplying or providing fire arms without knowing about criminal conspiracy or criminal intention of use of same by any of accused and has thus observed that at the most role attributed to applicant would be confined to provisions of Section 4/25 of the Arms Act.

From the say of prosecution, role attributed to applicant is similar to that of co-accused Shekhar who is released on bail as role attributed to applicant is about his purchasing fire arm from said co-accused and making it available to co-accused Shahrukh.

So far as provision of Section 120(B) is concerned, learned Additional Public Prosecutor by referring to statements of bar owner and other witness who is Waiter has stated that from the statements of these witnesses applicant's role as conspirator can said to be established as he was found in the company of co-accused Shahrukh, Pankaj, and Shekhar. However, it is material to note that co-accused Shekhar as well as all other accused persons including Shahrukh are also granted bail.

In the circumstances as above, application is, therefore, 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 mark his presence with Police Station Gondia (City), District Gondia once in three months 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)

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