

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

CRIMINAL APPLICATION (BA) NO.103/2017

JANARDHAN S/O RAMDHAN RATHOD

..VS..

THE STATE OF MAHARASHTRA THR. POLICE STATION OFFICER POLICE
STATION MANORA DIST. WASHIM

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

Court's or Judge's Order

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

Shri S.V. Sirpurkar, Counsel for the complainant.

Shri R.S. Nayak, Addl.P.P. for the State.

CORAM : V.M. DESHPANDE, J.

DATED : SEPTEMBER 11, 2017.

1. Heard learned counsel Shri R.M. Daga for the applicant, learned counsel Shri S.V. Sirpurkar for the complainant, and learned Additional Public Prosecutor Shri R.S. Nayak for the State.

2. The primary submission of learned counsel for the applicant is that even after commencement of the Trial, the Honourable Apex Court has granted the bail in favour of certain accused persons in spite of the fact that the Trial has already commenced.

3. Learned counsel for the applicant produced the order passed by the Honourable Apex Court which is taken on

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record and the same is marked as “Annexure-X” for the purposes of identification.

4. Perusal of the order passed by the Honourable Apex Court does not show that it was brought to the notice of the Honourable Apex Court that the Trial has already commenced.

5. The first information report is lodged by Sau. Nirmala Chauhan, an unfortunate mother of deceased Avinash who lost his life in a ghastly incident which has started on the instigation of the present applicant. The first information report shows that it is the applicant who has prevailed and influenced minds of other accused persons to form unlawful assembly and in furtherance of their common object to commit murder of Avinash, Avinash was mercilessly assaulted by the present applicant and other accused persons.

6. On 24.8.2017 this Court called the report from learned Additional Sessions Judge, Mangrulpur in whose Court the Trial is going on. The report is placed on record.

7. I have perused the report. The report shows that the evidence of PW1 Nitin Thakare was recorded on 20.7.2017 and the said was completed on the very same day. On 31.8.2017 injured witness Mukesh's evidence was recorded in part by the

Trial Court. However, during recording of the evidence, that is after recording some part of cross-examination, injured witness Mukesh fell ill therefore, the cross-examination was deferred, till 1.9.2017.

On 1.9.2017 witness injured Mukesh was not in a position to go through rigour of the cross-examination due to his bad health and, therefore, an application along with medical report was filed on record and, therefore, the matter was adjourned to 5.9.2017.

The cross-examination of prosecution witness Mukesh was completed on 5.9.2017 and the case is fixed to 6.9.2017 for recording of evidence of other witnesses. The letter, which is received by This Court from learned Additional Sessions Judge, Mangrulpur is dated 6.9.2017.

8. Learned Sessions Judge, Mangrulpur is appointed from 16.8.2017. As per the report, link Court at Mangrulpur is functioning from 16th to the end of month and the Court gets only 12 to 13 days. It is also pointed out by learned Judge of the Court below about the pendency of the matter at Mangrulpur. Still, learned Sessions Judge has expressed that he will be able to decide the Sessions Trial as expeditiously as possible.

9. Looking to the role attributed by the first

informant against the present applicant and the present applicant being the person who can be termed as a root cause for eliminating Avinash, I see no reason for releasing him on bail especially when the Trial has already commenced and learned Sessions Judge is taking all pains to complete the Sessions Trial as expeditiously as possible.

10. Hence, the criminal application is rejected.

JUDGE

!! BRW !!

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