

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

CRIMINAL APPLICATION (BA) NO.133 OF 2017

Mohd. Ahfaj s/o Kamruddin Ahmad

..VS..

State of Maharashtra, through P.S.O. Yashodhara Nagar Police Station, District
Nagpur

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

Court's or Judge's Order

Shri R.K. Tiwari, Counsel for the applicant.

Shri V.P. Gangane, Addl.P.P. for the non-applicant/State.

CORAM : P.N. DESHMUKH, J.

DATED : FEBRUARY 22, 2017.

This is an application by one of the accused in Crime No.1 of 2017 registered under Section 370 read with Section 34 of the Indian Penal Code and Sections 3, 25, and 27 of the Arms Act.

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

It is submitted that out of four accused involved in this crime, three are released on bail by learned Sessions Court and only involvement of applicant is about his firing from short arm. It is contended on behalf of applicant that admittedly complainant did not receive any injury and as such though investigation is in progress, application be allowed by imposing suitable conditions.

Learned Additional Public Prosecutor has

opposed the application as per its reply on record.

It appears to be the case of prosecution that applicant has opened fire as above upon complainant and there are eyewitnesses to the incident when applicant has fired one round and the pistol is attached at the instance of applicant. Application is further opposed on the ground that there is possibility of applicant tampering with witnesses who are residing in the same locality and that applicant has criminal antecedents since two other crimes are registered against applicant and are pending.

Perusal of report by Mohd. Asif Ansari would reveal that on 31.12.2016 he along with his brother Golu attended some marriage where applicant and three accused were also present and on some issue quarrel took place amongst them.

It is further contended that at around 10:00 p.m., complainant's brother Golu, 22 years, informed complainant that applicant and co-accused had assaulted him. Complainant along with Golu therefor went in search of applicant and his associates and found them present in the nearby ground where at about 10:30 p.m. there was quarrel amongst them when it is stated that applicant suddenly removed country-made pistol and fired upon complainant. However, he missed the shot.

Considering the contents of report as

aforesaid, it is found that involvement of applicant by way of opening fire which admittedly has not struck to anyone. Apprehension of prosecution of applicant's tampering the witnesses can be taken care of by imposing suitable conditions upon applicant, while so far as applicant's criminal antecedents are concerned, learned counsel for applicant states that both crimes registered against applicant are in respect of incidents which occurred on the public tap and are likely to be settled between the parties.

Considering facts involving applicant as aforesaid and since co-accused who at the time of alleged incident involving fire arms, were present with applicant, are released on bail, application is allowed as per the order below:

1) Applicant shall be released on bail on his executing P.R. Bond in the sum of Rs.20,000/- with one surety in the like amount.

2) While on bail, applicant shall not enter within the jurisdiction of Yashodhara Nagar Police Station, District Nagpur, till filing of the charge-sheet and on filing of the same shall attend Yashodhara Nagar Police Station, District Nagpur once in a month on first day of each such month, pending Trial.

3) Till filing of the charge-sheet,

applicant shall mark his presence with police station within whose jurisdiction he prefers to reside.

Needless to say that applicant shall not tamper with the evidence in any manner.

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