

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

CRIMINAL APPLICATION (BA) NO.144 OF 2017

Anand s/o Raju Thakur

..VS..

State of Maharashtra, through Officer in charge, Chandrapur City Police Station,
Tahsil and District Chandrapur (Maharashtra State)

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

Court's or Judge's Order

Shri Nitin S. Autkar with Shri Aniruddha B. Tikle, Counsel for the applicant.

Shri N.B. Jawade, Addl.P.P. for the Non-applicant/State.

CORAM : P.N. DESHMUKH, J.

DATED : MARCH 10, 2017.

One of the accused involved in Crime No.574 of 2016 registered for the offences punishable under Sections 302, 201, and 109 read with Section 34 of the Indian Penal Code has filed this application for bail.

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

Perused affidavit-in-reply and charge-sheet, copy of which is placed on record.

Learned counsel for the applicant submits that in the entire charge-sheet, no role of applicant can be said to be attributed to be instrumental in committing murder of deceased Sagar. It is submitted that case of prosecution even otherwise is based on

circumstance and the only circumstance relied by prosecution is of deceased having lastly seen in the company of accused, however, by referring to statements of witnesses Smt. Rina Chawate and Sikandar Roy, on this piece of evidence, has submitted that from evidence of these two witnesses, no involvement of applicant can be established even to attract theory of last seen. In the circumstances, it is prayed that as there is no sufficient evidence against applicant, application be allowed.

Learned Additional Public Prosecutor has opposed the application as per its reply on record and has submitted that applicant in fact had made a complaint against deceased about assault committed by him on co-accused Suraj by means of sword in the year 2014 and as such their relations were strained. It is contended that applicant has aided commission of present crime and thus submitted that application be rejected.

In view of submissions advanced as aforesaid, F.I.R. reveals that deceased was missing from 30.7.2016 at 8:00 p.m. for which missing report was lodged by his brother and on 2.8.2016, at around 5:00 o'clock his dead body was recovered from Zarpal nullah. Involvement of applicant as per report is of his having old enmity along with co-accused persons. The name of two eyewitnesses as Rina and Sikandar are mentioned

in the report whose statements reveal that in the night on 31.7.2016 after 11:30 p.m., co-accused Sachin Thakur, Karpya, Vicky along with deceased Sagar arrived in her house and consumed liquor and left place. Admittedly, no name of applicant is mentioned in this statement. As such, theory of last seen cannot be applied so far as present applicant is concerned. Similar is the statement of Sikandar Roy.

Statement of Rajesh Naidu is about extra judicial confession by co-accused Sachin. As such, his statement also does not establish involvement of applicant.

In that view of the matter, applicant's involvement is only found by way of his name being mentioned in the report as an accused who is suspected to have taken away deceased along with co-accused to settle old issue and is, thereafter, suspected to have committed murder along with other accused. However, said contents of report do not find substantiated or corroborated from other evidence on record.

Having considered limited evidence against applicant as aforesaid, application is 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 Chandrapur Police Station on the first day of each such month, pending Trial and shall not tamper with prosecution evidence.

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

Application stands disposed of accordingly.

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 :- 14/3/2017