

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

Criminal Application (BA) No. 199 of 2017

Vaibhav v. State of Maharashtra

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

Court's or Judge's orders

Shri R. M. Daga, Advocate for applicant
Shri N. B. Jawade, APP for State and Shri Nitin Hiwase, Advocate
to assist him

Coram : S. B. Shukre, J

Dated : March 31, 2017

1. Criminal Application No. 394 of 2017 : Heard.
For the reasons stated in the application, the same is allowed.
Leave to assist the prosecution is granted.
2. Criminal Applications no. 315 of 2017 and 316 of
2017 : Heard. Time, as prayed for, is granted. Applications
are disposed of.
3. Criminal Application (BA) No. 199 of 2017 :
Heard. Perused the First Information Report and reply of the
prosecution.
4. It is seen that the entire case is based upon
circumstantial evidence and as far as the present applicant is
concerned and whatever circumstantial evidence is available
as is pointed out in the reply of the prosecution, in my view,
appears to be of quite weak nature. The circumstantial
evidence is only in the nature of discovery of two mobile
hand-sets under Section 27 of the Evidence Act at the
instance of the applicant. Incidentally, these mobile phones as
well as SIM cards inserted therein all belonged to the present
applicant. It is stated that the SIM cards of the deceased
which were sometime inserted in these hand-sets in order to

mislead the investigating agency, were later on destroyed. But, there is no evidence available in this regard. The reply also shows that according to the investigating agency, there was exchange of several SMSs between 23.00 hrs of 13th august 2016 and 06.00 hrs of 14th August 2016 between the present applicant and the main accused Kiran. The nature of SMS is not available and it appears that no efforts have been made for recovering the original texts of the SMS as admittedly no letter has been sent to any of the Competent Authority for retrieving of the necessary data from the main server of the concerned service provider. Apart from this evidence, there is no evidence pointed out to me so as to enable this Court to infer anything about existence of prima facie case against this applicant.

5. The charge-sheet has also been filed and, therefore, it is the time when this applicant, in the background of afore-stated evidence, should be released on bail.

6. Application is allowed and it is directed that the applicant be released on bail in Crime No. 275/2016 registered with Police Station, Ajni, Nagpur for the offences punishable under Sections 363, 302, 452, 201, 120B read with Section 34 of the Indian Penal Code read with Sections 4 and 25 of the Arms Act as also Section 135 of the Bombay Police Act on his furnishing PR Bond of Rs. 25000/- together with one solvent surety in the like sum, on the following conditions :

(i) Applicant shall attend the trial Court regularly on all dates of hearing.

(ii) Applicant shall cooperate with the trial Court for

expeditious disposal of the trial.

(iii) Applicant shall not tamper with prosecution evidence in any manner.

Application is disposed of.

JUDGE

joshi