

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

CRI. APPLICATION (BA) NO. 553 OF 2017

(ARVIND SANGITRAO DESHMUKH...VS.. STATE OF MAH. THR. P.S.O. PS NERPARSOPANT CITY,
DIST. YAVATMAL)

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

Court's or Judge's orders

Shri. P. W. Mirza, Advocate for Applicant.
Shri. V. A. Thakare, A.P.P. for Non-applicant.

CORAM : Z.A.HAQ, J.
DATED : 27th JUNE, 2017.

Heard.

The applicant is arrested on 28th June, 2016 in connection with crime registered against him, his wife and his son initially for the offence punishable under Section 307 read with Section 34 of the Indian Penal Code and then because of death of the victim later on, for the offences punishable under Sections 302, 307, 201 read with Section 34 of the Indian Penal Code.

According to the Investigating Agency, when the victim Praful Bhaise had gone to the field alongwith an officer of Revenue Department for measurement of the field, quarrel took place between Praful Bhaise and accused, the wife of the present applicant warned Praful Bhaise that the measurement work should not be undertaken and as Praful Bhaise insisted for measurement, the applicant picked-up a spear from the field and assaulted Praful Bhaise. The facts on record shows that Praful Bhaise suffered five injuries, was hospitalized and then because of 'Septicemia', he died after 5 days.

The application is opposed on the ground that there is ample material showing the involvement of the applicant in the crime.

The learned advocate for the applicant has submitted that it is not a pre-meditated crime and there is no mens rea. It is argued that the investigation is complete and charge-sheet is filed on 28th September, 2016 and there is nothing on record to show that the custody of the applicant is required for further investigation. It is submitted that the statements on which the Investigating Agency is relying are recorded after almost a month of the incident. It is further submitted that co-accused (wife and son of the applicant) are released on bail as per the order passed by the Sessions Court and this Court.

Though the submissions made by the learned advocate for the applicant appear to be appealing, the facts on record show that overt act of causing injury to deceased is not attributed to wife and son of the applicant and according to the Investigating Agency, the applicant has caused injuries to the deceased.

Considering the nature of incident and the nature of the accusations against the applicant, I am not inclined to grant the prayer made in the application.

The application is **dismissed**.

JUDGE