

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

Criminal Application (BA) no. 649/2017

Swapnil S/o Chandrakant Kashikar

Vs

The 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. Tahaliyani & Shri J.S. Chilotra, Adv. for the applicant.

CORAM : S.B.Shukre, J

DATE : 19.7.2017.

Heard.

This is the second bail application filed by this applicant after rejection of his first bail application by this Court on 12th April, 2017. After filing of the charge-sheet, applicant filed application for bail before the Sessions Court. The second application follows his application filed before the Trial Court, after the charge-sheet and its rejection by the Trial Court. So, this application has been filed after filling of the charge sheet.

The allegation against this applicant is related to his leading the assault upon the Forest Officials, smashing the wind screen of the Government

Vehicle and robbing one of the Forest Officials/ the Complainant, of his mobile handset and a cash amount of Rs. 5,300/-. However, it seems from the charge-sheet that the recovery of the mobile phone and cash amount of Rs. 5,300/- allegedly snatched away by this applicant has not been effected from this applicant while cash amount of Rs. 5,300/- was not recovered. The mobile handset which was allegedly snatched away by this applicant was recovered from other co-accused, who has been already granted bail.

It also seems from the charge sheet that Murlidhar Katore was one of the eye witnesses to the incident. He was the driver of one of the Government Vehicles involved in the incident. He, however, does not speak anything about snatching away of mobile phone of the complainant Rajan Talmale and speaks about snatching away the mobile phone of other Forest Officer Shri Ajay Bodhe. He also does not seem to be an eye witnesses to the alleged incident of forcibly taking away the cash amount of Rs. 5,300/- from the complainant. He states that he was told about it by the complainant although he was an eye witnesses to the incident being

very much present at the spot, at the relevant time. These facts, coming to the fore after the investigation is over and charge-sheet has been filed, were not available when this Court rejected the previous bail application- Criminal Application (BA) no. 259/2017 of the applicant on 12th April, 2017. Therefore, now, these facts would constitute change of circumstances and in my view, they would be sufficient, at this stage for this Court to exercise its discretion on grant of bail in favor of this applicant.

It is true some offences were already registered against this applicant when the incident in this case occurred. They were registered for the offence punishable under section 324 of the Indian Penal Code. But, considering the facts that the other eye witness now have taken somewhat different stand in the matter, I am of the view that the possibility of the exaggerated allegations being made against this applicant, as rightly submitted by Learned Counsel for the applicant, cannot be ruled out and therefore the pendency of the criminal cases in this background could not be held against this applicant at this stage.

In the result, now, I am of the view that this application deserves to be allowed and it is allowed. The applicant be released on bail in Crime No. 315/2017 registered with Police Station Ramnagar, Chandrapur for the offences punishable under Sections 395, 397, 353, 333, 506, 363, 341 of the Indian Penal Code, Section 7 of Criminal Amendment Act and Section 3 of the Prevention of Damage to Public Property Act on furnishing a P.R Bond of Rs. 50,000/- with a solvent surety in the like amount on following conditions:-

- 1)The applicant shall stay out of the city limits of Chandrapur till the trial of the case against him is over. However, he is permitted to enter the city limits of Chandrapur on the dates fixed in the session trial by the Court.
- 2)The applicant shall not tamper with prosecution witnesses.
- 3)The applicant shall co-operate with the trial Court in expeditious disposal of the trial.

JUDGE