

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

CRIMINAL APPLICATION (BA) NO. 713 OF 2017

(Sunil Tovaram Varma..vs..The State of Maharashtra,through PSO.PS.Kalmana,Nagpur.)

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

Court's or Judge's orders.

Shri R.H.Rawlani, Advocate for applicant.

Shri Indranil Damle, A.P.P. for State-respondent.

CORAM : V.M. DESHPANDE, J

DATED : AUGUST 11, 2017

Heard learned advocate for applicant and learned
A.P.P. for State-respondent.

2] By the present application, applicant who is accused
no.2 in Crime No.105/2017, registered with P.S.Kalmana,
Nagpur under Sections 302, 307, r/w Section 34 of the Indian
Penal Code and is arrested on 9/3/2017 is seeking his
enlargement on bail.

3] The F.I.R. is lodged by Karan @ Gangoi S/o
Sukhlal Shahu, the brother of deceased Manoj. The F.I.R. is
lodged on 9/3/2017 in respect of occurrence of 8/3/2017 at
9.30 p.m. As per the F.I.R. when the first informant alongwith
his friend were proceeding from Sakharwadi Railway Line that
time he noticed a scuffle is going on and therefore as a
curious spectator when he reached near the same to notice
his brother Manoj was assaulted by the present applicant and
accused no.1 by means of sharp pointed weapon. When the
first informant and his friend tried to rescue deceased that
time it is alleged that the present applicant gave a call that

today Manoj should not be left alive and thereafter they ran away

4] The investigating officer has already completed the entire investigation and chargesheet is already filed.

5] The learned counsel for applicant invited my attention to the F.I.R. lodged by the present applicant against deceased which is forming part and parcel of the present chargesheet itself. Perusal of the said F.I.R. shows that on 8/11/2013 present applicant lodged report with P.S.Kalmana against deceased Manoj that he has committed murder of Sonu and therefore submitted that false implication of the present applicant at the hands of present first informant cannot be ruled out.

6] I have gone through the statements of the eye witnesses which shows that they are general in nature. Further during the course of investigation, the weapon is seized at the behest of accused no.1 from his house.

7] Looking to the fact that it is the present applicant who was first informant in a crime in which deceased was arrested for committing murder of one Sonu and there is no recovery at the behest of the present applicant and further fact that the investigation is already over , in my view discretion can be exercised in favour of the applicant by imposing stringent conditions on the present applicant. Hence, following order.

ORDER

- I) The application is allowed.
- II) Applicant Sunil Tovaram Varma be released in Crime No.105/2017,registered with P.S.Kalmana, Nagpur under Sections 302, 307, r/w Section 34 of the Indian Penal Code on his executing P.R. of Rs. 20000/- with two solvent sureties in the like amount.
- III) The applicant shall attend P.S.Kalmana,Nagpur on his release from jail i.e. twice a month i.e. on 4th Saturday and Sunday in between 3.00 p.m. to 5.00 p.m. till culmination of the trial.
- IV) The applicant shall not try to pressurise or intimidate the prosecution witnesses.
- V) If it is noticed by the investigating officer that the present applicant is trying to cause prejudice to the prosecution case, then in that event, the investigating officer will be at liberty to move the application for cancellation of bail.
- VI) With this the application is disposed of.

JUDGE