

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

CRIMINAL APPLICATION (BA) NO.775/2017

Gopal s/o Deorao Paighan ..vs.. State of Maharashtra thr. PSO P.S. Washim
(City), Dist. Washim.

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

Court's or Judge's orders.

Mr. Suyash Agrawal, Advocate for applicant.
Mrs. K. R. Deshpande, A.P.P. for non applicant-State.

CORAM : V.M. DESHPANDE, J.
DATED : AUGUST 16, 2017

Heard Mr. Suyash Agrawal, learned counsel
for the applicant and Mrs. Kalyani Deshpande, learned
A.P.P. for the non applicant-State.

The applicant is arrested in connection with
Crime No.236/2017 registered with Police Station,
Washim for the offence punishable under Section 302
read with Section 397 of the Indian Penal Code.

The investigation according to the learned
A.P.P. is not completed and the charge-sheet is yet to be
filed. However, the learned A.P.P. states that she is
having the entire investigation papers. From perusal of
the investigation papers, she makes a statement that it
appears that only the formality of filing of the charge-
sheet is remained

The FIR is lodged by one Barku Payghan. The
FIR does not name any accused person. The deceased is
brother of the first informant Barku. On the day of the

incident, Barku received an information that his brother Baban is being assaulted at a godown near petrol pump, Hingoli Road, Washim. Therefore he went there. However, that time he noticed that dead body of his brother is lying there. He further noticed that gold ornaments which were there on the person of Baban were also missing.

As per the prosecution, there are no eye witnesses to the actual assault.

According to the prosecution, there was an old enmity between co-accused Pravin and the deceased. According to the learned A.P.P., from the investigation papers it is clear that at the time of the actual assault, the present applicant was not present on the spot. The role that is revealed during the course of the investigation against the present applicant is that he made available the weapon to the main accused Pravin.

During the time when the applicant was under Police Custody Remand, as per the investigation papers, he made a disclosure statement which shows that he agreed to show the place where he handed over the weapon to Pravin, the main accused.

There are no eye witnesses. The entire case of the prosecution based on the circumstantial evidence. Further, even according to the prosecution at the time of assault, the applicant was not found to be present on the spot of the occurrence. The role attributed is that he has handed over the weapon to the main accused. Further,

though the charge-sheet is not filed, it appears from the record that the entire investigation is complete and only the formality of filing of the charge-sheet is remained to be completed.

Therefore, in my view further incarceration of the present applicant in the jail is not necessary. Hence, following order is passed.

ORDER

- (i) Criminal Application No.775/2017 is allowed.
- (ii) The applicant-Gopal Deorao Paighan is directed to be released on bail in connection with Crime No.236/2017 registered with Police Station, Washim (City), Dist. Washim for an offence punishable under Section 302, 397, 120-B and 201 of the Indian Penal Code, on he executing PR bond in the sum of Rs.25,000/- with two solvent sureties in the like amount.
- (iii) The applicant shall attend Police Station, Washim (City), Washim twice in a week i.e. on every Tuesday and Thursday between 3.00 P.M. to 5.00 P.M. till the filing of the charge-sheet. After filing of the charge-sheet, the applicant shall attend Police Station, Washim (City) once in a month i.e. on last Sunday of every month between 3.00 P.M. to 5.00 P.M. till culmination of the trial.

JUDGE