

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**NAGPUR BENCH, NAGPUR****CRIMINAL APPLICATION (BA) NO.777/2017**

Akash Kailash Raut.vs.State of Maharashtra thr. PSO P.S.Ambazari, Nagpur

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

Court's or Judge's orders.

Mr.S.Singha, Advocate h/f Mr. R.K. Tiwari, Advocate for applicant.
Mr. V. Gangane, A.P.P. for non applicant-State.

CORAM : V.M. DESHPANDE, J.

DATED : AUGUST 18, 2017

Heard learned counsel for the parties.

The applicant is arrested in connection with Crime No.59/2017 registered with Police Station, Ambazari, Nagpur for an offence punishable under Section 302 read with Section 34 of the Indian Penal Code.

The investigating officer has already completed the entire investigation and charge-sheet is also filed on record. The applicant is arrested on 20.02.2017. As per the prosecution case, the FIR is lodged by Shekhar Bawangade. The FIR states that on 18.02.2017 at about 11.40 in the night, his friend Vijay Sikkarwar, the deceased and one Banti Meshram had been to the house of the complainant. They were under the influence of liquor. After some time, Banti left the house. The FIR states that Vijay was under the influence of liquor and therefore he was making unnecessary dialogs and statements. Therefore, the first informant asked that since he is under the influence of liquor, he should take rest. The FIR further states that that time 3-4 persons came there. They were having lethal

weapons so also stones and bricks with them. According to the FIR, all of a sudden they started assaulting Vijay. Therefore, he ran away in the nearby lane. He was followed by his assailants. As per the FIR, he was also assaulted in front of the house of one Vikas Gadpayle. The first informant when reached near the place that time, the assailants fled away from the spot and Vijay was lying on the ground in an injured condition. That time, Vikas Gadpayle came there. Both of them took Vijay to Dande Hospital and thereafter he was taken to Mayo Hospital. As per the FIR, when Vijay was chitchatting with him, he disclosed that on 18.02.2017 there was scuffle between him and Sujju Chavan and Vicky. They were assaulted by Vijay.

As per the police statement of Vikas, in front of whose house a part of assault has taken place on Vijay, the accused persons including the applicant assaulted Vijay by means of stones and bricks.

According to the said police statement since he was frightened on the day of incident he did not disclose the name of the present applicant either to police or the first informant or the mother of the deceased or other relatives. In that behalf, it would be useful to refer to a document which is available in the charge-sheet which shows that when the deceased was admitted in the Mayo Hospital that time Vikas Gadpayle was with him. The said document is in the nature of hospital intimation. The gist of the statement of Vikas shows that the deceased was attacked by some persons that time name of the present applicant is not

stated. Further in the last line of the said intimation, it is written, "*Sobatche Bayan Zale*" that means the statement of Vikas was also recorded by police. However, the said is not finding place in the charge-sheet.

In view of the aforesaid nature of the evidence and in view of the fact that the charge-sheet is also filed, custodial interrogation of the present applicant is not warranted. Interest of the prosecution can be secured by imposing conditions upon the applicant. Hence, following order is passed.

ORDER

- (i) Criminal Application No.777/2017 is allowed.
- (ii) Applicant-Akash s/o Kailash Raut is directed to be released on bail in connection with Crime No.59/2017 registered with Police Station, Ambazari, Nagpur for an offence punishable under Sections 302 read with Section 34 of the IPC, 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, Ambazari, Nagpur twice in a month i.e. on the first Tuesday and last Friday of every month in between 3.00 p.m. to 5.00 p.m. till the culmination of the trial.
- (iv) The applicant shall not tamper with the prosecution evidence and also shall not try to influence the prosecution witnesses.

JUDGE