

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

NAGPUR BENCH, NAGPUR.

CRIMINAL APPLICATION (BA) NO. 825 OF 2017

(Sawansingh Madansingh Rajput..vs..State of Maharashtra, through
P.S.O.PS. Malkapur(City),District Buldhana)

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

Court's or Judge's orders.

Shri S.V.Sirpurkar, Advocate for applicant.

Shri J.Y.Ghurde, A.P.P. for State-non-applicant.

CORAM : V.M. DESHPANDE, J.

DATED : SEPTEMBER 8, 2017

This is an application under Section 439 of Code of Criminal Procedure, for grant of regular bail.

Heard learned counsel for the applicant and learned A.P.P. for State-non-applicant.

The applicant is arrested on 29/6/2017, in connection with Crime No.306/2017, registered with P.S. Malkapur (City), District-Buldhana, for the offence punishable under Section 307 r/w Section 34 of the Indian Penal Code and Section 3,25 of the Arms Act.

The F.I.R. is lodged by Smt.Sapna Ravindrasinh Rajput wife of victim Ravindrasinh Rajput. As per the F.I.R. the victim was head master of school by name Karmaveer Bhikamsing Patil Ucha Madhyamik Vidyalaya, Nipana, Tahsil Motala. He was suspended from his service by the President of trust Ram Khubaji Rathod who used to obtain money for employing new teachers by removing old teachers. It is also stated in the F.I.R. that said Ram Rathod was nursing grudge against the victim since he resisted the moves of said

Rathod by employing new recruits by obtaining money from them and placed victim under suspension thereafter he lodged appeal before School Tribunal at Amravati and the hearing of the said case was fixed on 29/6/2017.

It is further stated in the F.I.R. that on 28/6/2017 at about 8.00 p.m. when the victim was taking his dinner he received phone call from president Ram Rathod. To have a telephonic conversation victim stepped out of his house, however immediately he came in side the house. After having dinner he informed first informant Smt. Sapna that he is waiting phone call of Ram Rathod, President and therefore he again went outside the house and was strolling on the road. According to F.I.R. at about 10.30 p.m. when the first informant made a phone call to victim his phone was found showing busy tone. Thereafter, she received immediately phone call from the victim who informed that since he was talking with Ram Rathod and he will return to the house after the telephonic conversation with Ram Rathod is over. The F.I.R. then further states that at about 10.45 p.m. she heard voice like a cracker which invited her attention and therefore she came outside her house. That time, she noticed that one Krishikesh Dilip Nafde, a neighbour was holding her husband-victim. That time she noticed that from victim's abdomen blood was oozing. The victim thereafter was taken to hospital. The F.I.R. states that she made inquiry with Krishikesh who informed her that when he heard cracker like voice therefore he came out of his house, that time he noticed two persons were proceeding on a motorcycle towards Panchmukhi Hanuman temple. In the F.I.R. she states that the

president of the school, officiating principal and one Bharat Surwale were exercising pressure on the victim for compromising the case which was filed in the School Tribunal at Amravati and therefore she raised suspicion that due to the said her husband may have been assaulted.

In the hospital on 29/6/2017, statement of the injured was recorded. In the said statement, he raised suspicion against the present applicant as his assailant since he was having a dispute about 4-5 years ago of the incident in respect of the plot. Victim's another statement is recorded on 3/7/2017 in which he changed version though he maintained the presence of applicant on the spot. In the statement dated 3/7/2017 it is the allegation of the victim that the applicant must have been driving the motorcycle and the pillion rider of the said motorcycle opened fire on him. Both the statements show that at the time of assault on him the assailant and the person who was driving the motorcycle were having masks on their faces.

The applicant who was in police custody remand, however nothing could be recovered at the behest of the present applicant during the said police custody remand. This Court is informed by the learned A.P.P. that even today neither the weapon nor the motorcycle is traced out by the investigating officer. Though the chargesheet is not filed vis-a-vis against the present applicant it shows that entire investigation is just over. Prima facie, two contrary versions are coming on record from the mouth of the victim. In the first he is raising suspicion against the present applicant that he assaulted, however in a subsequent statement he is raising suspicion that he was driving

the motorcycle and pillion rider has opened the fire. In both the statements victim stated that at the time of assault both the driver and the pillion rider of the motorcycle were having covered their faces by masks. The cause as sought to be put forth by the victim that there was a dispute that occurred between him and the applicant on account of immovable property namely plot was about 4-5 years ago . Thus, prima facie cause appears to be stale one.

The applicant is in jail since 29/6/2017. As on today, except the aforesaid two contrary statements of the victim there is nothing on record to implicate the present applicant. Therefore, in my view, the personal liberty of the applicant cannot be further curtailed. That leads me to pass the following order.

ORDER

- I) The application is allowed.
- II) Applicant Sawansingh Madansingh Rajput be released on bail in Crime No.306/2017, registered with P.S.Malkapur(City),District-Buldhana, for the offence punishable under Section 307 r/w Section 34 of the Indian Penal Code and Section 3,25 of the Arms Act on he executing P.B. of Rs. 25,000/- with two solvent sureties in the like amount.
- III) The applicant shall attend P.S.Malkapur (City), District-Buldhana twice a week i.e. every Saturday and Monday in between 2.00 p.m. to 5.00 p.m. till

the chargesheet is filed.

- IV) After the chargesheet is filed the applicant is directed to attend P.S.Malkapur(City),District-Buldhana once in a month i.e. last Sunday of every month in between 3.00 p.m to 5.00 p.m. till the culmination of the trial.
- V) The applicant shall not extend threats to injured or his wife or any of the prosecution witness.
- VI) If it is noticed by the investigating officer that the applicant has tried to tamper the prosecution witnesses by any mode it shall be open for the investigating officer to move appropriate application for cancellation of bail.
- VII) Accordingly, the application is disposed of.

JUDGE