

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

CRIMINAL APPLICATION (BA) NO.862 OF 2017
(Vinod s/o Pannalal Choudhari and another vs. State of Maharashtra)

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

Shri P.R. Agrawal, Advocate for applicants.
Smt. G. Tiwari, Additional Public Prosecutor for
respondent.

CORAM : P.N. DESHMUKH, J.

DATED : SEPTEMBER 21, 2017

In pursuance of order dated 13/9/2017 passed by this Court, Smt. Tiwari, learned Additional Public Prosecutor for respondent, makes a statement that no identification parade is held till today. On that date, after hearing for sometime, matter was adjourned as it was stated that identification parade would be held in near future.

In view of above statement, heard Shri Agrawal, learned Counsel for applicants, who has submitted that though according to the case of prosecution, alleged assault on complainant Santosh Thakre is an outcome of reports alleged to be lodged by complainant against applicants, due to which offence came to be registered against them under the provisions of Maharashtra Prohibition Act, such offence as per first information report, a copy of which is tendered at Bar, is registered only against applicant no.1 Vinod Choudhari under Section 65-E of the Maharashtra

Prohibition Act.

Perusal of report reveals that assault is alleged to be committed on complainant by both applicants for the aforesaid reason. However, in view of first information report having been registered against applicant no.1 alone, there cannot be said to be any reason for applicant no.2 Pankaj Puniya to commit assault on complainant along with applicant no.1 Vinod Choudhari. Even otherwise, though it is stated that assault is committed by applicant no.1 Vinod Choudhari by axe on head of complainant while applicant no.2 Pankaj Puniya caught hold of Santosh by his hands, injuries sustained by injured Santosh are by way of swelling on the left forearm and shoulder with tenderness on fore-arm. As per injury report, it is further certified that there are no other major injuries found on the person of complainant.

Smt. Tiwari, learned Additional Public Prosecutor for respondent, on a specific query, stated that there is no seizure panchanama of axe nor there is copy of requisition letter in respect of articles, if any forwarded for their analysis to Forensic Laboratory in the case diary. Even there are no documents in the case diary to establish as to what was the nature of injury when it was referred for further management to General Hospital, Amravati as said documents also do not form part of case diary.

Admittedly, both the applicants were granted magisterial custody remand after grant of two days' Police custody remand. In that view of the matter,

though investigation is in progress and no charge-sheet is filed till date, applicants are found entitled for bail by imposing conditions. Hence, following order :

Order

Applicants shall be released on bail on their executing P.R. Bonds in the sum of Rs.25,000/- each with one surety each in like amount.

While on bail, applicants shall not enter the area of Police Station Shirkhed, Taluq Morshi, District Amravati for a period of two weeks after their release, during which period, they shall mark their presence every day with Police Station, Gadge Nagar, Amravati between 10 a.m. and 12 noon. Thereafter, applicants shall mark their presence with Police Station, Shirkhed on the first day of each month between 10 a.m. and 12 noon till filing of charge-sheet.

Applicants shall cooperate with investigation and shall not tamper with prosecution witnesses.

The application is accordingly allowed.

JUDGE

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