

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

CRIMINAL APPLICATION (ABA) NO.633 OF 2016
(Ganpat s/o Bhimrao Gite 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.S. Girdekar, Advocate for applicant.
Smt. K. Deshpande, Additional Public Prosecutor for
respondent.

CORAM : P.N. DESHMUKH, J.

DATED : JANUARY 31, 2017

This application is filed by applicant for grant of anticipatory bail in Crime No.273/2016 registered under Section 307 read with Section 34 of Indian Penal Code.

Heard Shri Girdekar, learned Counsel for applicant, and Smt. Deshpande, learned Additional Public Prosecutor for respondent.

Shri Girdekar, learned Counsel for applicant, has submitted that in all seven accused are involved in this crime, out of which six accused are already released on bail by learned Sessions Court and application filed by applicant came to be rejected only on the ground that his involvement is established in the present crime as he had poured poison in the mouth of complainant and as the nature of offence is serious. It is contended by learned Counsel for applicant by referring to the reply filed by prosecution before learned Sessions Court that in fact as per forensic report, during the course of

treatment provided to complainant, her stomach wash was sent to Chemical Analyser and Chemical Analyser's report is negative. It is, therefore, submitted that application be allowed.

Smt. Deshpande, learned Additional Public Prosecutor has opposed the application as per reply and submitted that though it is mentioned in para 5 of the reply that applicant was granted bail in earlier crime and was directed to stay away from complainant, who is his wife, on referring to order passed by learned Additional Sessions Judge with reference to earlier crime, wherein applicant was granted bail, has submitted that no such condition was imposed except for directing accused therein not to tamper with the evidence. In that view of the matter, it is stated by learned Additional Public Prosecutor that contents of para 6 of the reply are also uncalled for with regard to applicant's flouting conditions while on bail as mentioned therein.

Having considered facts as aforesaid and on perusal of report, involvement of applicant is found with regards to his administering some liquid to his wife, which does not establish to be any poisonous substance as per Chemical Analyser's report. In view of the fact that role attributed to co-accused is that they had caught hold of hands of complainant and had forcibly opened her mouth when applicant administered some liquid substance and since other co-accused are already released on bail by learned Sessions Court and in view of Chemical Analyser's report, role of applicant can be said to be at par with that of co-accused, application is liable

to be allowed by confirming order dated 13/10/2016 passed by this Court Hence, following order :

The criminal application is allowed in terms of order dated 13/10/2016 with further direction to applicant to attend Investigating Officer as and when called till filing of charge-sheet.

JUDGE

khj