

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

CRIMINAL APPLICATION (BA) NO.891/2017

Kunal s/o Krishna Khadase ..vs.. State of Maharashtra through PSO P.S.
Jaripatka, Nagpur

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

Court's or Judge's orders.

Mr. Avdesh Kesari, Advocate for applicant.
Mr. I. Damle, A.P.P. for non applicant.

CORAM : V.M. DESHPANDE, J.
DATED : SEPTEMBER 19, 2017

Heard Mr. Avdesh Kesari, Advocate for
applicant and Mr. I. Damle, A.P.P. for non applicant.

This is an application for regular bail.
Though the case is coming for the first time, the learned
A.P.P. is fully prepared with the matter. He is having all
case papers with him. Not only that, he has tendered his
reply, which is taken on record. The attempt on behalf of
office of the Public Prosecutor is highly appreciated.

The applicant is arrested on 26.07.2017 in
connection with Crime No.464/2017 registered with
Police Station, Jaripatka, Nagpur for an offence
punishable under Sections 143, 147, 148, 149, 307, 323
read with Section 34 of the Indian Penal Code.

According to the submission of Mr. Kesari,
learned counsel for the applicant, name of the present
applicant is not mentioned in the FIR. Therefore, the
applicant is entitled to be released on bail.

Merely because the name of the applicant is not mentioned in the FIR that by itself is not sufficient to release the applicant on bail since the FIR is not the last word of the prosecution. Rather, it is the starting point of the prosecution.

In the present case, the FIR is lodged by one Manoj Bawangale, father of the injured Anshul. In the FIR, it is stated that his son was attacked by one Chotu and Waghya and his other associates. The FIR is lodged on 25.07.2017.

Statement of Anshul, the injured is recorded on 29.07.2017. The statement attributes a specific role against each of the accused persons who are arrayed as accused in the crime. According to the statement of Anshul, he was attacked by wooden stick by one Ankit @ Ganja. According to the statement of the injured, he was attacked by fist blows by the present applicant.

The investigation is in progress. However, from the police papers, those were made available to this Court and according to the submission of the learned A.P.P. for the State, in near future, the investigating officer has filed final report before the Court.

Looking to the fact that the role attributed against the present applicant is that he has only given fist blow and the investigation is on the verge of completion, I am of the view that the applicant who is in jail since 26.07.2017, need not to continue with his incarceration in jail.

In view of above, following order is passed.

ORDER

- (i) Criminal Application No.891/2017 is allowed.
- (ii) Applicant-Kunal s/o Krishna Khadase be released on bail in connection with Crime No.464/2017 registered with Police Station, Jaripatka, Nagpur for an offence punishable under Sections 143, 147, 148, 149, 307, 323 read with Section 34 of the Indian Penal Code on he executing P.R. Bond in the sum of Rs.30,000/- with two solvent sureties in the like amount.
- (iii) The applicant is directed to attend Police Station, Jaripatka, Nagpur twice a week i.e. on every Thursday and Saturday and shall be with the investigating officer from 02.00 p.m. to 5.00 p.m. till the charge-sheet is filed.
- (iv) After the charge-sheet is filed the applicant shall attend Police Station once in a month i.e. on second Wednesday of every month till the culmination of the trial and he shall be with the investigating officer from 04.00 p.m. to 05.00 p.m.

JUDGE