

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

CRIMINAL APPLICATION (BA) NO.901 OF 2017

Sandeep s/o Atmaram Pund

..vs..

The State of Mah., thr. PSO PS Risod, District Washim

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

Court's or Judge's Order

.....
Shri R.M. Mardikar, Counsel for the applicant.

Shri M.J. Khan, Addl.P.P. for the State.

CORAM : V.M. DESHPANDE, J.

DATED : SEPTEMBER 28, 2017.

1. Heard learned counsel Shri R.M. Mardikar for the applicant and learned Additional Public Prosecutor Shri M.J. Khan for the State.

2. The applicant is arrested on 28.10.2015 in connection with Crime No.269 of 2015 registered with Police Station Risod, District Washim for the offences punishable under Sections 326 and 302 of the Indian Penal Code read with Sections 3(1)(10), 3(2)(25) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

3. The charge-sheet is already filed. Deceased is one one Shyam Bhosale.

4. First information report is lodged on 28.10.2015 by Sau. Latabai Shyam Bhosale. She is widowed of Shyam Bhosale. According to the first information report, on 27.10.2015 at 7:00

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p.m. when she and her husband, the deceased and her married daughter Sau Sadhana Ajay Pawar and son-in-law Ajay Pawar were present in their house, present applicant came in front of their house and asked that he wants one 'Chitar' (type of bird). Upon that, the husband of the first informant informed the applicant that they do not indulge into hunting. Upon that, all of a sudden, the applicant, as per the allegations, took out a knife and gave knife blows on arm and wrist of Shyam Bhosale.

This is the gist of the first information report and even the said fact can be gathered from the statement of Sadhana Pawar and Ajay Pawar, who were present at the time of incident.

5. Learned counsel Shri R.M. Mardikar for the applicant invites my attention to page No.33 of the compilation, which is communication by Medical Officer at Washim to Police Station Officer at Washim in which it is stated that Shyam Bhosale is admitted in hospital and, therefore, somebody should be sent for recording of his statement. The said intimation letter shows that it is written that somebody has assaulted on injured.

6. What is relevant is that first informant Latabai has admitted Shyam Bhosale in the hospital. Still, name of the applicant is not appearing on the said first contemporaneous document.

7. As per document Postmortem-cum-Provisional Cause of Death Certificate given by the Government Medical College at Aurangabad, the cause of death is of *“shock due to septicemia with acute renal failure as complications following injury to right axillary artery due to stab injury to right arm.”*

8. The death has occurred on 31.10.2015 at Aurangabd.

9. Learned Additional Public Prosecutor Shri M.J. Khan for the State could not point out anything to show that when the deceased was discharged from the hospital at Washim and when he was admitted in the Government Medical College at Aurangabad, where he took his last breath.

10. Even, according to statements of eyewitnesses, the applicant gave knife blows on the right arm and wrist of the deceased. Thus, the knife blows were not given on the vital part of the body. The knowledge cannot be attributed to the applicant that by giving knife blows on the right arm, there will be renal failure due to shock in view of this septicemia. It appears that if a proper medical treatment was given to the deceased, his life could have been save, which occurred due to septicemia.

11. It is brought to my notice that though the charges are framed and though witness summonses are issued, the witnesses of the prosecution are not turning, is the submission

made by learned Additional Public Prosecutor, upon instructions which he received from the APP Incharge of the Sessions Trial.

12. The applicant is in jail since 28.10.2015. Therefore, in view of the aforesaid discussions about the prosecution case, in my view, the applicant can be released on bail, as per order below:

ORDER

i) The criminal application is allowed.

ii) Applicant Sandeep s/o Atmaram Pund be released on bail on his executing a P.R. Bond in the sum of Rs.25,000/- with two solvent sureties of the like amount, in connection with Crime No.269 of 2015 registered with Police Station Risod, District Washim for the offences punishable under Sections 326 and 302 of the Indian Penal Code read with Sections 3(1)(10), 3(2)(25) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

iii) The applicant shall attend the police station once in a month, till culmination of the Trial, on 2nd Saturday of every month in between 3:00 p.m. and

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5:00 p.m.

iv) Needless to mention that the observations made in this order are purely for the decision of the present application and learned Judge of the Court below, before whom ultimately the Trial will be conducted, shall not get influenced by the observations in the order of this Court.

v) With this, the criminal application is disposed of.

JUDGE

!! BRW !!

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