

IN THE HIGH COURT OF JUDICATURE AT BOMBAY:
NAGPUR BENCH : NAGPUR
Criminal Application [BA] No.911 of 2017
[Sheikh Maksud Sheikh Ibrahim Vs. State of Mah. Butibori Police
Station, Distt. Nagpur]

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

Court's or Judge's orders

Mr. Jaltare, Adv., for the Applicant.
Mr. M. J. Khan, APP for non-applicant non-applicant.

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CORAM : A. S. CHANDURKAR, J.

DATE : 04th October, 2017

The applicant who has been arrested on 27th July, 2017 pursuant to Crime No. 150/06 which subsequently culminated in Sessions Trial No. 465 of 2006 seeks his release on bail.

According to the prosecution, on 11th August, 2006, about eighteen accused persons had assaulted Ashok Singh and had left him injured. A report in that regard was lodged on 26th August, 2006. Subsequently, said Ashok Singh expired and hence offence under Section 302, Indian Penal Code, was also registered. In

Sessions Trial No. 465 of 2006, the learned Sessions Judge acquitted all the accused by judgment dated 26th November, 2010. The trial against the present applicant proceeded under Section 299 of the Criminal Procedure Code. In this backdrop, the applicant seeks his release on bail.

Shri Jaltare, learned counsel for the applicant, submitted that the prosecution had examined PW 4 and Pw 6 as eye-witnesses to the aforesaid incident. Both these witnesses did not name the present applicant. He submitted that PW 4 had stated that there was darkness when the incident took place, while PW 6 identified the accused who were present in the Court as those who had assaulted his brother. It is then submitted that the applicant was identified in the Test Identification Parade conducted on 10th August, 2017. It is, thus, urged that considering the nature of evidence on record and the fact that the trial has concluded in acquittal, the applicant is entitled for being released on bail.

Shri M.J. Khan, learned Addl. Public Prosecutor, opposed the application and submitted that the applicant had absconded immediately after the crime. He could not be traced and hence it was now proposed to file a supplementary charge-sheet against him. He submitted that two eye-witnesses had identified the present applicant in the Test Identification Parade. It is further submitted that if the applicant is enlarged on

bail, he would not be available to face the trial.

Perused the evidence that was recorded in Sessions Trial No. 465 of 2006, especially the deposition of PW 4 and PW 6.

The incident in question occurred on 11th August, 2006 and the Identification Parade, in so far as the present applicant is concerned, was conducted after almost ten years. Considering the material on record, I do not find that any useful purpose would be served by detaining the applicant. Instead, by imposing certain conditions, he can be released on bail.

In view of aforesaid, the applicant, who has been arrested in connection with Crime No. 150/2006 for offences punishable under Sections 147, 148, 149 and 307 read with Section 149 of the Indian Penal Code registered at Butibori Police Station, Nagpur, is directed to be released on bail on furnishing a Personal Bond of Rs.20,000-00 [rupees twenty thousand only] and one surety in the like amount. The applicant shall attend the Butibori Police Station, Distt. Nagpur, initially on 12th October, 2017 and thereafter on every first Monday of each month.

The applicant shall furnish his contact number to the Investigating Officer. He shall not take any steps to influence the prosecution witnesses.

The observations made in this order are only for deciding the bail application which is allowed in aforesaid terms and is disposed of.

Judge

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