

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

CRIMINAL APPLICATION (BA) NO.930/2017

Ranjit Bhagwan Deshmukh ..vs.. State of Maharashtra through PSO P.S.
Risod, Tq. Risod, Dist. Washim.

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

Court's or Judge's orders.

Mr. S. D. Chande, Advocate for applicant.
Mr. M. J. Khan, A.P.P. for non applicant.

CORAM : V.M. DESHPANDE, J.
DATED : SEPTEMBER 26, 2017

Heard Mr. S.D. Chande, Advocate for
applicant and Mr. M. J. Khan, A.P.P. for non applicant.

Though the case is coming for the first time,
the applicant has annexed the entire copy of the charge-
sheet and therefore the learned A.P.P. is ready with the
matter. The attempt on behalf of Mr. M.J. Khan, the
learned A.P.P. is highly appreciated.

The applicant is arrested on 07.03.2017 in
connection with Crime No.41/2017 registered with
Police Station, Risod, Tq. Risod, Dist. Washim for an
offence punishable under Sections 302, 307, 354 (A) (1)
(I), 452 of the Indian Penal Code read with Sections 3
(1) (W) (i), 4 (i), (1) (S) of the Scheduled Castes and
Scheduled Tribes (Prevention of Atrocities) Act.

The investigation is over and charge-sheet is
already filed. The entire case of the investigation, it
appears, is revolving primarily around three dying

declarations of the deceased Sangita. The first dying declaration is available at page no.127 of compilation. The said dying declaration is appearing on the bed-head ticket of Sangita when she was taking treatment for burn injuries in the Government Hospital at Akola. The said statement of Sangita was recorded by the attending doctor, Dr. Prashant Jankar, which was recorded at 4.00 hours on 08.02.2017. In the said statement, she has stated that due to the fall of lamp on her person, her clothes came in contact with the flame and accordingly she received the burn injuries. She has specifically stated that she did not attempt to commit suicide nor anybody has attempted to kill her.

Her second and third dying declarations are recorded by Police Officer. These are at page nos.40 and 43 of the compilation. In the said two dying declarations which are recorded by police, she attributes the role against the present applicant that when she was alone in the house, present applicant made entry and thereafter caught hold of her hand and was having an evil eye on her. Thereafter, he poured Kerosene and set her ablaze.

The learned A.P.P. for the State submitted that the CA report is available on record and the CA report shows that the clothes of the applicant were having Kerosene residues, which according to the learned A.P.P., guarantees the presence of the applicant inside the house of the deceased Sangita.

Though this particular submission of the learned A.P.P. appears to be very attractive at the first blush, on closer scrutiny of the available evidence on record, I am of the view that the submission is required to be rejected. The applicant was arrested on 07.03.2017. His clothes were seized on 08.03.2017 i.e. after one month of the incident and still the prosecution prima facie wants that the Court should believe that the clothes were seized when the applicant was roaming in the society with the clothes having Kerosene. Out of the three dying declarations, one completely absolves the present applicant.

It is the trite law in the cases of the prosecution based on multiple dying declarations that the Court should not apply the principle of "Pick and Choose". In that view of the matter, the present applicant is entitled to be released on bail.

ORDER

- (i) Criminal Application No.930/2017 is allowed.
- (ii) Applicant-Ranjit Bhagwan Deshmukh be released on bail in connection with Crime No.41/2017 registered with Police Station, Risod, Tq. Risod, Dist. Washim for an offence punishable under Sections 302, 307, 354 (A) (1) (I), 452 of the Indian Penal Code read with Sections 3 (1)(W)(i), 4 (i), (1)(S) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act on he executing PR Bond in the sum of Rs.25,000/- with two solvent sureties in the like amount.

(iii) It is made clear that the observations made by this Court are restricted only for deciding the application for bail. The learned Judge who shall be conducting the trial shall not get influenced by any of the observations made in the order.

The application stands disposed of.

JUDGE

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