

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

CRIMINAL APPLICATION (BA) NO.943/2017

Atul Sudamji Sadawarti ..vs.. State of Maharashtra through PSO P.S. Tahsil,
Nagpur, Tq. Dist. Nagpur

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

Court's or Judge's orders.

Mr. U. P. Dable, Advocate for applicant.
Mr. T. A. Mirza, A.P.P. for non applicant-State.

CORAM : V.M. DESHPANDE, J.
DATED : SEPTEMBER 28, 2017

Heard Mr. U. P. Dable, Advocate for applicant
and Mr. T. A. Mirza, A.P.P. for non applicant-State.

The applicant is arrested in connection with
Crime No.191/2017 registered with Police Station,
Tahsil, Nagpur for an offence punishable under Section
302, 323 read with Section 34 of the Indian Penal Code.

The investigation is over. The charge-sheet is
also filed. The applicant is accused no.1 in the said
crime. Accused no.2 is Swapnil who is already released
on bail by this Court on 04.09.2017 in Criminal
Application (BA) No.821/2017 and at that time though
the charge-sheet was not filed, it was observed by this
Court that the investigation is at the verge of completion
and only formality of filing of the charge-sheet is
remained to be done.

The deceased is one Ashish. On 18.06.2017,
the first informant Raturaj along with deceased Ashish
went for having dinner in one Omshakti Saoji Bhojnalaya.

After having their dinner, when they came out, two persons were standing in front of Zylo Car of the first informant. They said that due to the Zylo car, they were unable to remove the motor vehicle and therefore a verbal altercation ensued and in that they started assaulting on Ashish by fist and kick blows, resulting into the death of Ashish when he was taken to the hospital of Dr. Chandak.

Looking to the nature of accusations made against the present applicant in the charge-sheet, finally even the offence punishable under Section 302 of the IPC is likely to be scaled down to the lesser offence. Further, it appears that the verbal altercations which ensued on the trifle issue has resulted into the kicks and fist blows. The applicant is in jail since 19.06.2017.

Since the investigation is over and the charge-sheet is already filed, looking to the nature of accusation, this Court is of the view that presence of the applicant in jail is not required. Hence, following order is passed.

ORDER

- (i) Criminal Application No.943/2017 is allowed.
- (ii) Applicant-Atul s/o Sudamji Sadawarti be released on bail in connection with Crime No.191/2017 registered with Police Station, Tahsil, Nagpur for an offence punishable under Section 302, 323 read with Section 34 of the Indian Penal Code, on he executing P.R. Bond in the sum of Rs.25,000/- with one solvent surety in the like amount.

(iii) The observations made by this Court are restricted to deciding the bail application only. The learned Judge of the Court who will be trying the Sessions Trial shall not get influenced by the observations made in the order.

The application stands disposed of.

JUDGE

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