

IN THE HIGH COURT OF JUDICATURE AT BOMBAY:
NAGPUR BENCH : NAGPUR
Criminal Application [BA] No. 956 of 2017
[Hafiz Abdul Sheikh Vs. State of Mah., Mauda PS, 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. Mir Nagman Ali, Adv., for the applicant.
Mr. M.J. Khan, APP for non-applicant.

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CORAM : A. S. CHANDURKAR, J.

DATE : 13th October, 2017

The applicant who has been arrested pursuant to Crime No. 267/2017 registered at Mouda Police Station, Distt. Nagpur, for the offences punishable under Sections 302, 326, 323, 147, 148 and 149 read with Section 34 of Indian Penal Code, seeks his release on bail.

As per the report dated 3rd June, 2017, one Gopi Ajwani used to come to the Panthela of the informant. On 2nd June, 2017, said Gopi and his brother had told the informant to supply a bottle of water. One Afzal and his brother-in-law were seen along with two persons by the informant. The victim Gopi Ajwani was assaulted by sticks and he was then taken on the motorcycle. Subsequently, said Gopi expired. The applicant was arrested on 9th June, 2017.

It is submitted on behalf of the applicant that he

has not been named in the First Information Report or the statement of the informant which was thereafter recorded on 5th June, 2017. According to the learned counsel, even the brother of the deceased who was with him did not name the applicant herein and only on the basis of statements of alleged witnesses that were recorded on 8th June, 2017, the present applicant has been implicated. It was also submitted that no test identification parade was conducted and hence in this situation, the applicant is entitled to be enlarged on bail.

The application is opposed by Shri M.J. Khan, learned APP. It is submitted that recovery of stick has been made from the applicant which reveals his prima facie involvement. The applicant has been named in the statements of Sunil Wanjari, Buntty Meshram and Rajan Sahare. It is submitted that considering the gravity of the offence, the applicant does not deserve to be enlarged on bail.

Perused the charge-sheet which has been filed on 1st September, 2017. The applicant herein was not named in the FIR or the supplementary statement of the informant. He has also not been named by the injured brother of the deceased. Despite availability of the applicant, the test identification parade has not been conducted till date. The only material against him are the three statements which are recorded after about six days.

Considering the fact that investigation is complete and charge-sheet has been filed, further detention of the applicant is not warranted. Instead, he can be released by imposing conditions. Accordingly, the applicant who has been arrested pursuant to Crime No. 267/2017 registered at Mouda Police Station, Distt. Nagpur, for the offences punishable under Sections 302, 326, 323, 147, 148 and 149 read with Section 34 of Indian Penal Code, is directed to be released on bail on furnishing a Personal Bond of Rs.15000/- [rupees fifteen thousand only] with one surety in the like amount. The applicant shall attend the concerned Police Station on the first Monday of every month after his release and thereafter the Sessions Court as directed. No steps should be taken to influence the prosecution witnesses. The observations made in this order are only for deciding the bail application, which is allowed and disposed of.

Hamdast is granted.

Judge