

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

CRIMINAL APPLICATION (BA) NO. 1010 OF 2017

DEVENDRA S/O DADAJI SHIVANKAR (IN JAIL)

-vs-

STATE OF MAHARASHTRA

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

Court's or Judge's Orders.

Shri R. V. Khaparde, Advocate for applicant.
Shri S. M. Ghodeswar, APP for non-applicant/State.

CORAM : A.S.CHANDURKAR, J.

DATE : November 06, 2017

The applicant who has been arrested on 1-8-2016 in connection with Crime No.50/2016 registered at Police Station Goregaon, District Gondia for the offences punishable under Sections 302, 201 read with Section 34 of the Indian Penal Code seeks his release on bail.

As per the first information report lodged by the Police Patil information was received by him that the dead body of one Nilesh Zope was found with injuries. After the report was lodged, the investigation was undertaken. The applicant along with two others came to be arrested in connection with the said crime.

It is submitted on behalf of the applicant that the applicant has been falsely implicated. There are no eye witnesses to the aforesaid crime and merely on the basis of the fact that the applicant was last seen along with the deceased he has been implicated. It is submitted that accused no.1 was having an affair with the wife of the deceased and it was on that count that the deceased was alleged to be done away.

The accused no.3 who is the widow of the deceased has already been released on bail. It is submitted that the chargesheet has been filed in October, 2016 and hence, there is no reason to deny relief to the applicant herein.

The application is opposed by the learned Additional Public Prosecutor by relying upon the reply. It is submitted that the statements of two witnesses indicate presence of the applicant with the deceased on the date of the incident. The applicant had assisted accused no.1 in doing away with the deceased. As per test identification parade, the applicant was identified by the Manager of the country liquor shop where he had been alongwith the accused no.1. Hence, considering the gravity of the offence, the applicant does not deserve to be released.

Perused the first information report as well as the documents filed with the chargesheet. The material against the present applicant are the statements of two witnesses who have stated that they had seen the applicant alongwith the deceased in the market on the day of the incident. Besides this and the identification by the Manager of the liquor shop, there is no other material found against the present applicant.

Considering the fact that the accused no.3 has been released as per the order passed in Criminal Application No.301/2017 coupled with the fact that the chargesheet has been filed in October, 2016, a case of releasing the applicant on bail has been made out.

The application is allowed and it is directed that the applicant be released on bail in Crime No.50/2016 registered at Police Station Goregaon, District Gondia for the

offences punishable under Sections 302, 201 read with Section 34 of the Indian Penal Code on his furnishing PR Bond of Rs.25,000/- with one solvent surety in the like amount on the following conditions:

- (a) Applicant shall regularly attend the trial court on all dates as may be fixed in the trial.
- (b) Applicant shall cooperate with the trial Court in expeditious disposal of the trial.
- (c) Applicant shall not tamper with prosecution evidence in any manner.

The application is allowed. Observations made are only for deciding the present application.

JUDGE