

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

CRIMINAL APPLICATION (BA) NO.1026 OF 2017

Syed Juned Syed Salar

..vs..

The State of Mah., thr. PSO, PS Pusad, District Yavatmal

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

Court's or Judge's Order

Shri M.M. Ali, Counsel for the applicant.

Shri M.J. Khan, Addl.P.P. for the State.

CORAM : V.M. DESHPANDE, J.

DATED : DECEMBER 6, 2017.

1. Heard learned counsel Shri M.N. Ali for the applicant and learned Additional Public Prosecutor Shri M.J. Khan for the State.

2. This is a second application for bail. The first application being Criminal Application No.771 of 2017 was withdrawn by the applicant on 29.8.2017. That time, a liberty was granted to the applicant to file a fresh application before the Sessions Court, after filing of the charge-sheet since the said first application was filed prior to completion of the investigation.

3. After investigation was over and after filing of the charge-sheet, the applicant filed an application for bail before the Sessions Court at Pusad. The said application was rejected

on 10.10.2017. Consequently, the present application is filed.

4. Submission on behalf of the applicant by his learned counsel Shri M.N. Ali is that there is a variance in between first information statement of complainant Ashish and his supplementary statement dated 13.8.2017. He further submits that out of 8 arrested accused persons, 6 are already released on bail. He, therefore, submits that the applicant be released on bail and if he is released on bail, he will not enter the city limits of Pusad.

5. Per contra, the application is serious opposed by learned Additional Public Prosecutor Shri M.J. Khan for the State. He submits that due to incident, there was a situation like riots in the Pusad city since two groups from two different religions indulged into law breaking activities and present incident is genesis of the same. He submits that about 8 accused persons are still to be arrested and if this applicant is released on bail, he will hamper the investigation. He also submits that the investigation, in respect of followed crimes, are also yet to be completed. He, therefore, prays that the application be rejected.

6. The applicant is arrested on 30.6.2017. The incident in question is dated 30.6.2017. Crime No.0274 of 2017 was registered with Police Station Pusad (City) on the basis of the statement of Ashish which was recorded in Lifeline Hospital

at Pusad. In the said statement, he has attributed a specific role against the present applicant to the extent that the present applicant gave a blow of iron rod on his head, resulting into injury to his head.

7. Supplementary statement of Ashish was recorded on 30.3.2017. His supplementary statement would show that he has not attributed the role of assault to the present applicant. However, he has attributed the role that he caught hold Ashish.

8. Scrutiny of these two statements would reveal that Ashish has changed his version drastically. In the first information report statement, he has specifically attributed role of assault by an iron rod.

9. It is to be noted that even in the said statement he has stated that accused No.1 who is elder brother of the applicant, gave sword blow. In the supplementary statement, it is the version of Ashish that brother of the present applicant accused No.1 Annu gave sword blow on him and when he was running away from the spot of the incident, the present applicant caught hold him and, thereafter, he gave a jerk and ran away. Thus, in the supplementary statement not only he absolves the present applicant in respect of the assault by iron rod but he attributes a role of catching after sword blow was given. It is not his version that after he was caught by the present applicant, he received any other blow from the accused

persons.

10. The injury certificate is on record. Injury No.1 which is on forehead clearly shows that the said injury cannot be attributed to the blunt blow like iron rod and the said injury is caused by sharp weapon, even there is a certificate given by the doctor.

11. The applicant is a student taking education in an engineering college. That position is not disputed by the prosecution. The age of the present applicant is 22 years. The applicant is in jail since 30.6.2017. No weapon is recovered at his instance.

12. Looking to two different statements of Ashish and the fact that no other prosecution witness is attributing the role of giving iron rod blow on any of other injured, in my view, an engineering college student should not be detained further in jail custody. The apprehension of the prosecution can be taken care of by imposing stringent conditions.

13. According to learned counsel Shri M.N. Ali for the applicant, the applicant shall reside at Nagpur and he shall be staying in the house of Haji Sheikh Khurshid, a resident of Mominpura at Nagpur.

14. Consequently, I pass the following order:

ORDER

(i) The criminal application is allowed.

(ii) Applicant Syed Juned Syed Salar be released on bail on his executing a P.R. Bond in the sum of Rs.50,000/- with two solvent sureties of the like amount, in connection with Crime No.274 of 2017 registered with Police Station Pusad (City) for the offences punishable under Sections 307, 323, 324, 141, 143, 144, 148, 149, 504, 506, and 427 of the Indian Penal Code and Sections 4 and 25 of the Arms Act, 1959.

(iii) The applicant shall not enter territorial jurisdiction of Yavatmal district, till the trial is over. He is permitted to enter only on the dates of Sessions Trial and as soon as dates are over, he will be required to leave Yavatmal district.

(iv) One of surety bonds shall be executed by Haji Sheikh Khurshid, a resident of Mominpura at Nagpur in whose house the applicant shall be residing.

(v) The applicant is directed to attend the Tahsil Police Station Nagpur on each alternate day and

shall be in the police station from 5:00 p.m. to 7:00 p.m. initially for six months then shall attend the said police station once in week i.e. on every Sunday, till the Trial is over.

(vi) Any single breach of these conditions shall permit the investigating officer to file an application for cancellation of bail.

(vii) With this, the criminal application is allowed and disposed of.

JUDGE

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