

IN THE HIGH COURT OF JUDICATURE AT BOMBAY:
NAGPUR BENCH : NAGPUR
Criminal Application [ABA] No. 778 of 2017
[Dilip Biharilal Lilhare & others Vs. State of Mah., Gondia (Rural) PS,
Distt. Gondia]

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

Court's or Judge's orders

Mr. P. A. Gode, Adv., for the applicants.
 Mr. A. Madiwale, APP for non-applicant.
 Mr. V.S. Mishra, Adv., for informant.

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CORAM : A. S. CHANDURKAR, J.

DATE : 21st November, 2017

Misc. Criminal Application No. 1881 of 2017 :

For reasons stated in the application, the same is
 allowed in terms of Prayer Clause [1].

Application is disposed of.

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Criminal Application No. 778 of 2017 :

The applicants apprehend their arrest in
 connection with Crime No. 401/17 registered at Gondia
 (Rural) Police Station, Distt. Gondia, for the offence
 punishable under Section 306 read with Section 34 of

Indian Penal Code.

As per the report dated 23rd September, 2017 lodged by one Gunwanta Nagpure, his younger brother was working in a Co-operative Society as a Peon. On 10th September, 2017, his health deteriorated and hence he was given medical treatment. He was then admitted to hospital on 14th September, 2017 and thereafter shifted to Nagpur. Said Sunil subsequently expired on 22nd September, 2017. On that basis, a report came to be lodged.

It is submitted on behalf of the applicants that they are employed with the Co-operative Society in question where the deceased was also working. The allegations made against them are totally unfounded. Though the said Sunil is said to have consumed some poisonous substance on 10th September, 2017, there is no investigation with regard to the place where he took initial treatment. The statement dated 16th September, 2017 recorded in presence of the doctor does not indicate any abetement on the part of the applicants leading to commission of suicide. It is submitted that the applicants can be directed to co-operate with the investigation and their custodial interrogation is not warranted.

The application is opposed by the learned Addl.

Public Prosecutor by filing reply. It is stated that investigation is still in progress and necessary documents are to be seized. Considering the nature of allegations made against the applicants, they are not entitled for protection. These submissions are supported by learned counsel appearing for the informant.

Perused the First Information Report as well as the reply filed.

The investigation reveals that on 9th September, 2017, the deceased had taken leave for half day. On the next day, as he had some stomach ailment, he was admitted in hospital. It is stated that the victim was then admitted to the clinic of one Dr. Kudale. The investigation in that regard does not appear to have been conducted. His statement dated 16th September, 2017 reveals that the present applicants were mentally torturing the victim. Considering the nature of said statement, prima facie, the element of abetement does not appear therein. I find that the applicants can be directed to co-operate with the investigation while granting them protection.

Accordingly, in the event of applicant's arrest in connection with Crime No. 401/17 registered at Gondia (Rural) Police Station, Distt. Gondia, for the offence punishable under Section 306 read with Section 34 of Indian Penal Code, they shall be released on bail on

furnishing a Personal Bond of Rs. 25,000-00 [rupees twenty-five thousand only] each with one surety in the like amount. The applicants shall attend the concerned Police Station on 28th November, 2017 between 11.00 a.m. and 1.00 p.m.. No steps be taken to influence the prosecution witnesses.

The observations made in this order are only for deciding the present application which is allowed and disposed of.

Judge

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