

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

CRIMINAL APPLICATION (BA) NO.1032 OF 2016

Mr. Mrunal s/o Mayur Gajbhiye

..VS..

The State of Maharashtra, through P.S.O. P.S. Sitabuldi, Tahsil and District Nagpur

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

Court's or Judge's Order

Shri A.B. Moon, Counsel for the applicant.
Mrs. K.H. Deshpande, Addl.P.P. for the non-applicant/State.

CORAM : P.N. DESHMUKH, J.
DATED : FEBRUARY 23, 2017.

This application is filed by one of the co-accused involved in Crime No.340 of 2016 registered for the offences punishable under Sections 365 and 397 read with Section 34 of the Indian Penal Code.

Heard learned counsel for the applicant and learned Additional Public Prosecutor.

Learned counsel for the applicant has submitted that there are four accused involved in this crime including applicant out of which co-accused Kunal and Saurabh are released on bail by the Trial Court while co-accused Kartik is released on bail by this Court.

It is submitted that except for extending threats on the point of weapon, nothing is attributed to applicant. It is further contended that Muddemal gold

ornaments, gold pendant weighing 40 gms., gold chain, gold bracelet weighing 40 gms., and mobile cellphone of complainant involved in this crime have been recovered from the possession of co-accused Kunal at his instance who is granted bail. It is, therefore, contended that as investigation is complete and co-accused are already released on bail as above, applicant is prayed to be released on bail who is in custody since 2.8.2016.

Learned Additional Public Prosecutor opposed the application as per its reply on record and has contended that the contents of report are fully corroborated with the statement of Vinit Shahi. It is also submitted that amount of Rs.50,000/- is recovered at the instance of applicant and has submitted that apart from above direct stated evidence, as involvement of applicant is also established from the contents of report, application is prayed to be rejected.

Considering the submissions advanced as aforesaid, perusal of report lodged by complainant Varun reveals that he is having his business at Nagpur and was knowing one Payal about one year prior to the incident and her friend Kumari Apeksha. He also knows Vinit Shahi, friend of Payal since eight months prior to the incident and his friend, co-accused Kartik, Kunal, and Saurabh.

On the point of incident, it is stated that on 1.8.2015, in the evening, he along with Apeksha, Payal,

and Vinit went in his car for drive and at about 9:00 p.m.. While they were at Yashwant Stadium, Dhantoli, Apeksha received a phone call from her friend co-accused Kartik informing her to come to Deogiri Apartment, situated at Ramnagar Chowk, Ambazari. Therefore, complainant along with Apeksha, Payal, and Vinit reached Deogiri Apartment where co-accused Kunal, who is friend of Apeksha along with one Vaishnavi Phadke reached there and invited quarrel with Payal and Vinit and also manhandled Vinit. As per complainant, on his intervening this quarrel and on pacifying the same, left to leave Vinit, Apeksha, and Payal at their houses. It is further stated that while he was returning from Pahadi Apartment, Dharampeth, co-accused Kunal, Kartik, Saurabh, and applicant along with one Vaishnavi met him and it is alleged that all of a sudden they started assaulting complainant. Applicant is alleged to have in his possession one dagger like weapon and on the point of said weapon had extended threat to Vinit when complainant intervened, he was also threatened on the point of such weapon and demanded Rs.1.00 lack.

In the entire complaint except for above, nothing is attributed against applicant. In fact, from the contents of report, complainant has stated that at the time of this incident, he was not knowing applicant personally. However, he suspected him as a criminal

ailment of Sitabuldi area and, therefore, since amount of Rs.1.00 lack was not with him at the time when it was alleged to be demanded, stated to have accompanied applicant, all three co-accused Kunal, Saurabh, and Kartik to his house and from his house paid Rs.50,000/- to applicant.

Learned Additional Public Prosecutor has contended that said amount of Rs.50,000/- is recovered at the instance of applicant. However, considering the role attributed in the report as aforesaid and that co-accused are already released on bail by the Trial Court and by this Court, though apart from the contents as aforesaid which are stated to be corroborated by statements of other witnesses on record, only evidence of recovery of Rs.50,000/- at the instance of applicant, that by itself is not sufficient to reject the applicant as applicant is in jail since 2.8.2016 and investigation is complete.

In that view of the matter, application is allowed, as per order below:

Applicant shall be released on bail on his executing P.R. Bond in the sum of Rs.25,000/- with one surety in the like amount.

While on bail, applicant shall attend Sitabuldi Police Station once in three months on the first day of each such month.

The applicant shall submit proof of his

residence with the investigating officer and shall update the same in the event of change in future.

JUDGE

!! BRW !!

C E R T I F I C A T E

I certify that this Order/Judgment uploaded is a true and correct copy of original signed Order.

Uploaded by : Bhushan R.Wankhede.
(Personal Assistant)

Uploaded on :- 24/2/2017