

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

CRIMINAL APPLICATION (BA) NO.1084 OF 2017

Ganesh s/o Radheshyam Agre

..vs..

The State of Mah., thr. PSO PS Pratapnagar, District Nagpur

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

Court's or Judge's Order

Shri C.R. Thakur, Counsel for the applicant.

Shri T.A. Mirza, Addl.P.P. for the State.

CORAM : V.M. DESHPANDE, J.

DATED : DECEMBER 12, 2017.

1. Heard learned counsel Shri C.R. Thakur for the applicant and learned Additional Public Prosecutor Shri T.A. Mirza for the State.

2. On earlier occasion, the present applicant withdrew Criminal Application (BA) No.824/2017. Subsequent to his withdrawal, this Court granted bail to co-accused Salman s/o Firoz Quazi in Criminal Application (BA) No.878 of 2017. According to learned counsel for the applicant, this is a change in circumstance.

3. The applicant is arrested in connection with Crime No.163 of 2016 registered with Police Station Pratapnagar, Nagpur for the offences punishable under Section 302, 143, 147, and 149 of the Indian Penal Code. The applicant is arrested on

30.4.2016.

4. The investigation is over and the charge-sheet is already filed.

5. Sau. Mita De, who is mother of deceased Avinash, is first informant. However, she is not an eyewitness. Eyewitness is one Radha who is friend of deceased Avinash. From her statement it is clear that deceased Avinash was having criminal past. On the day of the incident, when Avinash and Radha were taking rest on the backside of Sanchayni Building, that time accused Pandit @ Kuldeep Tiwari came there and asked about Avinash. On getting negative reply, he proceeded towards Deonagar and after some time one Jamsher came there and he demanded one "Pudi". Probably, a narcotic drug. On that, deceased Avinash replied that he is not having the same. However, he offered one cigarette to him. Subsequently, Jamsher asked Avinash as to where Pandit has gone and they are going to kill him. That time, Jamsher was accompanied by applicant and other co-accused persons. After some time, Pandit came there. At that time, Jamsher gave stick blow on Pandit, due to which he fell on ground. At that time, Avinash enquired with Jamsher as to why he is assaulting on Pandit and at that time Jamsher and his friends started attacking on Avinash and Pandit.

6. During the course of the investigation, nothing is

seized from the present applicant. The clothes of the applicant were seized. They were not having blood stains.

7. Looking to this nature of evidence, in my view, the applicant, who is languishing in jail from 30.4.2016, has made out a case for bail. Consequently, I pass the following order:

ORDER

(i) The criminal application is allowed.

(ii) Applicant Ganesh s/o Radheshyam Agre be released on bail on his executing a P.R. Bond in the sum of Rs.25,000/- with two solvent sureties of the like amount in connection with Crime No.163 of 2016 registered with Police Station Pratapnagar, Nagpur for the offences punishable under Section 302, 143, 147, and 149 of the Indian Penal Code.

(iii) The applicant shall attend the police station once in a week i.e. on every Monday and shall be with the investigating officer between 3:00 p.m. and 5:00 p.m., till culmination of the Trial.

(iv) The applicant shall not extend any type of threats to any of the prosecution witnesses.

(v) If it is noticed by the investigating officer that the applicant is committing breach of conditions, the investigating officer is at liberty to file an application for cancellation of bail.

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

JUDGE

!! BRW !!

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