

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

CRIMINAL APPLICATION (BA) NO.1050 OF 2016

Sheikh Wasim @ Sheru S/o Sheikh Sabbir

..VS..

The State of Maharashtra, through its Police Station Officer, Police Station
Lakadganj, Nagpur

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

Court's or Judge's Order

Shri P.K. Bezalwar, Counsel for the applicant.
Shri S.A. Ashirgade, Addl.P.P. for the non-applicant.

CORAM : P.N. DESHMUKH, J.

DATED : JANUARY 16, 2017.

This application is filed by applicant involved in Crime No.275 of 2016 for bail registered under Sections 307, 324, 504, 143, 147, and 148 of the Indian Penal Code.

Heard learned counsel for the applicant and learned Additional Public Prosecutor for the non-applicant/State.

Learned counsel for the applicant has contended that there is no sufficient evidence to establish involvement of applicant as assailant of injured Dhiraj or Rahul. It is contended that injured Dhiraj on being referred to the private hospital was discharged on 24.9.2016 that is within three days and has, therefore, contended that since investigation is

complete, the application be allowed.

The prosecution has opposed the application as per reply. Learned Additional Public Prosecutor has submitted that charge-sheet is filed against the present applicant wherein three other co-accused are shown absconding. It is, further contended that there are statements of five eyewitnesses who have established involvement of applicant. The application is, therefore, prayed to be rejected.

The offence is found registered on the basis of the statement by Rahul wherein it has been stated that in the night of 21.9.2016, when he along with injured Dhiraj was present near Satranjipura, applicant arrived along with his brother and their associates and started abusing Dhiraj when applicant manhandled him by fist blows and kick blows. The complainant further stated that on his intervention, he was assaulted on his buttocks by knife by applicant's brother. From the report it is further revealed that applicant has also assaulted Dhiraj by stone while his brother assaulted Dhiraj on his back by knife. In view of report lodged by injured eyewitness, only role which can be attributed to applicant is about his causing kicks blows and fist blows to Dhiraj and assault on him by stone. In the later part of report, there is a generalized statement made involving applicant with his brother, and four-five

other co-accused who have assaulted upon Dhiraj and complainant by weapon like knife.

In the background of facts as aforesaid, from the statement of Dhiraj which is recorded on the following day, he has attributed applicant to have assaulted him by knife due to which he sustained injuries on his chest. Said fact is silent in the report lodged by Rahul. Further involvement of applicant is by way of committing assault on Dhiraj by stone.

In view of said inconsistency in the contents of the report and statement of Dhiraj both injured's and as from the medical report it is found that injured Dhiraj was admitted in the hospital for a period of three days only, since investigation is complete, the application is liable to be allowed as other evidence which is in the form of recovery of dagger at the instance of applicant under Section 27 of the Indian Evidence Act is corroborative piece of evidence of which evidential value can be considered at the time of trial on evaluating substantive evidence.

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

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

While on bail, applicant shall mark his presence with Lakadganj Police Station, Nagpur once in

a month on first day of each such month initially for a period of six months, pending trial and, thereafter, once quarterly on first day of each such month.

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)

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