

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

CRIMINAL APPLICATION (BA) NO.1058 OF 2016

Pranit Arvind Deshmukh

..VS..

The State of Maharashtra, thr P.S.O. of Police Station Nerparsopant City, District
Yavatmal

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

Court's or Judge's Order

Shri Parvez Mirza, counsel for the applicant.
Shri C.A. Lokhande, Addll.P.P. for the non-applicant/State.

CORAM : P.N. DESHMUKH, J.
DATED : JANUARY 5, 2017.

Heard.

The applicant, involved in Crime No.219 of 2016 registered with Police Station Ner Parsopant for the offences punishable under Sections 302, 307, 201, and 34 of the Indian Penal Code, has applied for bail.

Learned counsel Shri Parvez Mirza for the applicant has contended that in this crime in all three accused are involved, out of which co-accused mother of the applicant is already released on bail while co-accused Arvind Deshmukh is the person against whom witnesses have deposed as an assailant who injured Vilasrao Deshmukh and deceased Praful Bhaise. Learned counsel by reading the contents of the report as

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well as statement of injured and deceased has submitted that the applicant cannot be attributed to any of the injuries caused to the deceased and the injuries caused to injured Vilasrao are stated to be not serious. It is, therefore, submitted that since the injuries attributed to the applicant are alleged to have caused to injured Vilasrao are not serious, the applicant be released on bail imposing suitable condition as the charge-sheet is already filed.

Learned Additional Public Prosecutor opposes the application on the lines of reply on record and has contended that though investigation is complete, there is ample evidence against the applicant to establish involvement in the present crime thereby contending that apart from involvement of the applicant, from the report lodged by an eyewitness, applicant's involvement is further substantiated from the statement of injured Vilasrao as well as deceased Praful. Learned Additional Public Prosecutor has also contended that apart from the statement as aforesaid, applicant's involvement is further established from the statement of the Government Officer Shri Sandip Chaudhary who at the material time was present on the field for the purpose of carrying measurement and has thus contended that there is no reason for said

independent witness to falsely implicate the applicant. It is, therefore, prayed that since the evidence of these witnesses corroborates with the medical evidence, the application be rejected.

In the background of submissions advanced as aforesaid, on perusal of report lodged by Bandu Borkar dated 22.6.2016 it is revealed that on that day he along with injured Vilasrao were present in the field of Vilasrao as there was some measurement of the field to be carried out by Sandip Chaudhary, Officer of the Taluka Inspector of Land Records. He further states that said measurement was objected by the applicant and his father Arvind Deshmukh and mother Babybai Deshmukh and on that issue there arose quarrel between the applicant, his parents and Vilasrao as well as deceased Praful in the course of which co-accused Arvind committed assault on injured by sphere on his abdomen and waist and in the course of the same transaction committed assault on deceased Praful by committing assault by sphere on his abdomen. As per the report, co-accused Arvind, thereafter, ran away from the spot on the motorcycle. From the contents of the report as such it is found that it is only co-accused who is attributed of assault on injured as well as deceased Praful. Involvement of the applicant, according to

F.I.R., is only of his being present at the time of incident and running away on motorcycle along with co-accused Arvind.

In view of the contents of the report as aforesaid and on perusing the statement of deceased Praful, though it is found that he has involved the applicant along with co-accused Arvind as assailants, no specific role is attributed to the applicant as what is stated is that the co-accused and the applicant having been armed with sphere have committed assault on his person causing injury on his back, left side of his chest and also caused injuries to injured Vilasrao on his chest.

According to the postmortem notes, the deceased is found to have sustained as many as four incised wounds on the abdomen and the probable cause of death is due to "Septicemia" and the final opinion was reserved till the viscera report was made available. Admittedly, the said report is still awaited though the charge-sheet is admittedly filed. The deceased has succumbed to his injuries after five days of the incident. The injuries sustained by the deceased as well as Vilasrao, as per the report, therefore, *prima facie*, appears to have been caused by co-accused Arvind.

The statement of injured Vilasrao is to the effect that at the time of incident, co-accused Arvind

committed assault on his chest near abdomen due to which he sat down. Thereafter, the applicant committed assault on his waist from back side. This is the only role attributed to the applicant. It is further stated that then deceased Praful came to lift him, co-accused Arvind committed assault on Praful by sphere on his abdomen. It is material to note that though statement of deceased was recorded on the same day, that is on the day of the incident on 22.6.2016, the statement of injured Vilasrao was belatedly recorded after about one month on 16.7.2016.

Similarly, the statement of Sandip Chaudhary, officer of the Taluka Inspector of Land Records though has been relied by the prosecution as an independent eyewitness, has involved co-accused as an assailant of injured Vilasrao as well as of deceased Praful, who has sustained injuries in his abdomen. So far as involvement of the applicant is concerned, from the statement of Sandip Chaudhary what is stated is that the applicant assaulted Vilasrao near his waist. It is again material to note that the statement of alleged eyewitness is also recorded after one month of the incident on 23.7.2016. The other statement filed with the charge-sheet, *prima facie*, appears to be hearsay evidence. Though one of the grounds also canvassed by

learned Additional Public Prosecution is of recovery of two blades of sphere at the instance of the applicant, on perusal of record and statements of witnesses particularly eyewitnesses reveals that none of these witnesses stated about the applicant running from the spot with the sphere. Moreover, even according to the case of the prosecution, the sphere is alleged to be discovered at the instance of the applicant from the open space near from drainage of house of the applicant. In that view of the matter, no much weightage can be given to this aspect of the case of the prosecution.

In that view of the matter and as from the report of deceased, statements of injured Vilasrao and independent eyewitness, no specific role has been attributed to the applicant by deceased Praful while from other documents on record as it can be seen that the role attributed to the applicant is only by way of assault to injured Vilasrao near his waist. Since the investigation is complete, the application is liable to be allowed by imposing conditions.

Hence, the following order is passed:

ORDER

1. The applicant shall be released on bail on executing P.R. Bond in the sum of

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Rs.50,000/- with one surety in the like amount.

2. The applicant while on bail shall mark his presence with Police Station Nerparsopant quarterly on first day of each such month.

3. 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 !!

.....8/-

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 :- 7/1/2017

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