

IN THE HIGH COURT OF JUDICATURE AT BOMBAY:
NAGPUR BENCH : NAGPUR
Criminal Application [ABA] No. 810 of 2017
[Roshan Dyaneshwar Kadu Vs. State of Mah., Rajapeth PS,
Amravati]

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

Court's or Judge's orders

Mr. R. M. Daga, Adv., for the applicant.
 Mr. K. L. Dharmadhikari, APP for non-applicant.

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CORAM : A. S. CHANDURKAR, J.

DATE : 21st November, 2017

The applicant apprehends his arrest in connection with Crime No. 243/12 registered at Rajapeth Police Station, Amravati, for the offences punishable under Sections 307, 302, 212 and 120-B of Indian Penal Code.

As per the First Information Report dated 26th July, 2012, the accused are alleged to have assaulted one Girish resulting in grievous injuries. The other accused, excepting the applicant herein, were arrested and tried in Sessions Trial No. 225 of 2012. Said accused persons came to be acquitted on 30th May, 2017. The trial against the present applicant proceeded under Section 299 of the Code of Criminal Procedure, 1973. In this backdrop, the applicant apprehends his arrest.

It is submitted on behalf of the applicant that the accused persons who were attributed with overtacts resulting in injuries being caused to the victim who ultimately succumbed to the same have been acquitted after a full-dress trial. The only role attributed to the applicant herein is that he had stopped the victim - Girish when he was going on his motor cycle. Thereafter, the said assault had taken place. It is submitted that nothing has to be seized from the applicant herein and considering the nature of evidence on record, his custodial interrogation is not warranted.

The application is opposed by the learned Addl. Public Prosecutor by relying upon the reply. It is submitted that the applicant was absconding during trial and it is only for the first time that he has now sought protection. The applicant is alleged to have stopped the victim when he was proceeding on his motor cycle and this resulted in the attack on him. Hence, it is submitted that the application deserves to be rejected.

Perused the First Information Report as well as the statements records.

The Sessions Court during the trial disbelieved the evidence with regard to the other accused who had assaulted the victim. Said evidence indicates that the applicant is attributed with stopping the deceased when he was proceeding on his motor cycle. Though it is

observed that the applicant was absconding during trial, he was not so declared by adopting the procedure prescribed under the Code. After perusing the evidence on record, I do not find any reason to direct custodial interrogation of the applicant herein. He can instead be directed to co-operate with the trial. Hence, in the event of applicant's arrest in connection with Crime No. 243/2012 registered at Rajapeth Police Station, Amravati, for the offence punishable under Sections 307, 302, 212 & 12-B of Indian Penal Code, he shall be released on bail on furnishing a Personal Bond of Rs. 25,000-00 [rupees twenty-five thousand only] and one surety in the like amount. The applicant shall appear before the Court of learned Additional Sessions Judge, Amravati, on 4th December, 2017, so that the trial can proceed against him. He shall not take any steps to influence the witnesses.

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

Judge