

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

CRIMINAL APPLICATION (BA) NO.1062 OF 2016

(Abhishek Vardhan Sing s/o Ashutosh Sing vs. The State of Maharashtra)

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

Shri P.S. Wathore, Advocate for applicant.

Shri N.B Jawade, Additional Public Prosecutor for
respondent.

CORAM : P.N. DESHMUKH, J.

DATED : JANUARY 04, 2017

This is an application by accused in Crime No.517/2016 registered by Police Station, Sitabuldi, Nagpur for the offences punishable under Sections 143, 147, 149 and 307 read with Section 34 of Indian Penal Code and Sections 3 and 25 of the Arms Act on the basis of report lodged by one Pawan Chaudhari.

Shri Wathore, learned Counsel for applicant, submits that there are counter cases as prior to Pavan Chaudhari's lodging report, one Sameer Sharma on 13/11/2016 had lodged report with the same Police Station on the basis of which Crime No. 510/2016 came to be registered for the offences punishable under Sections 307, 143, 147, 148, 149, 427, 504 and 506 of Indian Penal Code. It is submitted that during investigation in abovesaid crime, on 18/11/2016, Pavan lodged report as aforesaid alleging that accused in the said crime had fired gun-shot at Lahoree Bar and Restaurant when he and his friends reached the spot to compromise the earlier incident. It is contended that out of five accused involved in this crime, all other

accused are released on bail – one by this Court while three by learned Sessions Court and even according to the case of prosecution, involvement of applicant is only by way of his having armed with iron rod. It is, therefore, submitted that apart from parity, applicant is liable to be released on bail as even from the statements of injured, no specific role is attributed to applicant.

Shri Jawade, learned Additional Public Prosecutor for respondent, has opposed the application on the ground that injured Harshal and Milind and eye witnesses Vikas, Pavan and Raunak have specifically involved the applicant as one of the assailants on injured Milind. However, by referring to the statements of Harshal and Milind, it is submitted that apart from applicant, 7-8 other persons are involved as their assailants.

While eye witnesses Vikas, Pavan and Raunak are stated to have involved applicant as armed with iron rod, admittedly, no injury certificates of Harshal and Milind are with the case diary stating that their statements were recorded five days after the incident and thus, they were not referred for medical examination.

Shri Jawade, learned Additional Public Prosecutor has also submitted that there are other crimes registered against the applicant as stated in the affidavit-in-reply.

To counter this submission, Shri Wathore, learned Counsel for applicant, has submitted that one of the sessions trials for the offence punishable under

Section 307 of Indian Penal Code is at the fag end, which aspect is not disputed by learned Additional Public Prosecutor and other trials though pending, are for the offences punishable under Section 324 of Indian Penal code and under the provisions of Arms Act.

Considering the role attributed to applicant as aforesaid and as this Court while enlarging co-accused Sameer Sharma on bail vide its order dated 14/12/2016 passed in Criminal Application (BA) No. 1044/2016 has considered the conduct of complainant Pavan Chaudhari in lodging report on the basis of which Crime No.517/2016 is registered after five days of the incident dated 13/11/2016 and attributing role to applicant to have committed assault by iron rod as aforesaid, application is liable to be allowed as co-accused are already released on bail as stated above.

In the circumstances, criminal application is allowed. Applicant shall be released on bail on his executing P.R. bond in the sum of Rs.25,000/- with one surety in like amount. Applicant shall mark his presence with Investigating Officer of Police Station, Sitabuldi, Nagpur as and when called till filing of charge-sheet and shall cooperate with investigation. Applicant shall produce proof of his residence and shall update the same, if there is any change in future.

JUDGE

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