

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

CRIMINAL APPLICATION (BA) NO.1105 OF 2016
(Sandip @ Chotu Linkumar Bawane vs. 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 R.S. Charape, Advocate for applicant.
Shri N.B. Jawade, Additional Public Prosecutor for
respondent.

CORAM : P.N. DESHMUKH, J.

DATED : MARCH 14, 2017

This application is filed for bail by accused in
Crime No.1152/2016 registered for the offence
punishable under Section 307 read with Section 34 of
Indian Penal Code.

Shri Charape, learned Counsel for applicant,
has submitted that co-accused Harshwardhan and
Shailesh are already protected by common order dated
14/12/2016 passed in Criminal Application (ABA)
No.701/2016 and 726/2016. It is contended that there
is nothing to establish involvement of applicant in the
present crime in any manner except for his being in
company of co-accused Harshwardhan. It is submitted
that application be allowed as investigation is completed
and co-accused having similar involvement are already
protected from their arrest.

Shri Jawade, learned Additional Public
Prosecutor for respondent, has opposed the application
as per reply. It is submitted that Crime No.6345/2015 is

already registered against applicant establishing his involvement in sale of illicit liquor in a District where there is prohibition.

Perusal of case diary made available by learned Additional Public Prosecutor reveals that report is lodged on 12/10/2016 to the effect that on that day in the evening co-accused Shailesh contacted complainant and demanded Rs.9000/- back, which was paid to complainant to procure liquor. However, since liquor could not be procured, said amount was claimed back. It further appears that on that count, there was quarrel near Adiwasi Hostel where co-accused Harshwardhan gave kick blows to complainant and assaulted him on head by stone and co-accused Shailesh joined Harshwardhan and they assaulted complainant on his back, due to which he fell down. Other co-accused, who were present, assaulted complainant by kick blows. Statements of eye witnesses, which are found recorded after two days of incident, establish role of co-accused persons when they were found armed with knife.

This Court while considering anticipatory bail application of co-accused persons numbered as aforesaid had specifically noted that statements of eye witnesses do not corroborate the contents of report. It is further noted from the statements of these witnesses that at the most involvement of applicant would be about his being present along with co-accused at the time of incident.

Considering facts as aforesaid, application is liable to be allowed on merits as well as on parity with

co-accused Harshwardhan and Shailesh.

In the circumstances, application is allowed as per order below :

Applicant shall be released on bail on his executing a P.R. bond in the sum of Rs.25,000/- with one surety in like amount. While on bail, applicant shall mark his presence with Police Station, Ramnagar, Chandrapur on the first day of every three months pending trial.

JUDGE

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