

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

CRIMINAL APPLICATION (BA) NO.1114 OF 2016

[Mahendra @ Bandu s/o Shankarrao Joge .vs. The State of Maharashtra]

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

Court's or Judge's

Shri R.M. Daga, Advocate for applicant,
Shri S.A. Ashirgade, APP for respondent.

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CORAM : P.N. DESHMUKH, J.
DATED : FEBRUARY 07, 2017.

Heard learned Counsel for both sides.

This application is filed by applicant for grant of bail in Crime No.823/2016 registered by Police Station, Hinganghat for the offence punishable under Section 302 read with Section 34 of Indian Penal Code.

Shri Daga, learned counsel for applicant, has submitted that role attributed to applicant and that to co-accused Ajay Kukde, who is released on bail by this Court, is similar.

Shri Ashirgade, learned Additional Public Prosecutor for the respondent, has opposed the application as per reply filed on record, however, has not disputed that the submission advanced on behalf of the applicant.

In that view of the matter, on perusal of order dated 6.12.2016 passed in Criminal Application (BA) No.999/2016 granting bail to co-accused Ajay Kukde, it is found that as per statements of Chandrabhan and Manoj, prior to death of Deepak, he was taken from his house by

applicant, co-accused Ajay and one Naitam and, thereafter, deceased was found having sustained serious injuries lying on the road and died subsequently when being admitted to Government Hospital at Wardha.

On the basis of statements of these two witnesses, prosecution has opposed application for bail and contended that from their statements, it is established that prior to death of deceased, he had indulged into quarrel with applicant and as such, he was subjected to assault by applicant, due to which he sustained severe injuries.

In view of submissions of prosecution as aforesaid, it is noted from the report that in the night intervening between 11.6.2016 and 12.6.2016 deceased was found lying on the road in unconscious condition and was thus referred to hospital where he was declared dead. Admittedly, no statement of deceased could be recorded. On the basis of report lodged by Police Officer, offence came to be registered against unknown persons. During investigation, on the statements of above referred two witnesses namely Chandrabhan, father of deceased and Manoj, brother of deceased, respectively which were recorded on 14.6.2016, limited involvement of applicant Bandu Joge along with co-accused Ajay Kukde and Naitam having accompanying deceased Deepak in the night of 11.6.2016 at around 9.45 p.m. is recorded. While considering application for bail of co-accused Ajay Kukde, this court considered that these two witnesses, in spite of having knowledge as aforesaid

of deceased being in company of applicant and other co-accused at 9.45 p.m. though was informed by police at around 4.00 p.m. that deceased was murdered and as such visited Police Station, did not make any disclosure of above facts to police and gave their statements three days thereafter. Even according to their statements, they learnt about deceased died of assault due to some incident. Though some wooden logs is stated to be recovered from the applicant, this evidence by itself is not sufficient to establish involvement of applicant.

Having considered the facts as aforesaid, application is liable to be allowed by imposing suitable conditions as per order below :

The applicant shall be released on bail on his executing P.R. Bond in the sum of Rs.50,000/- with one surety in like manner. The applicant shall report to Police Station, Hinganghat once in three months on the first day of each such month pending trial.

The criminal application is disposed of.

JUDGE