

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

CRIMINAL APPLICATION (BA) NO.1174/2017

Gaurav Bharat Umate ..vs.. State of Maharashtra thr. PSO P.S. Lohara, Yavatmal

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

Court's or Judge's orders.

Mr. Tejas Patil, Advocate for applicant.
Mrs. Gita Tiwari, A.P.P. for non applicant-State.

CORAM : V.M. DESHPANDE, J.

DATED : DECEMBER 19, 2017

1. Heard Mr. Patil, Advocate for applicant and
Mrs. Tiwari, A.P.P. for non applicant.

2. The applicant is arrested in connection with
Crime No.306/2017 registered with Police Station,
Lohara, Yavatmal for an offence punishable under
Sections 302, 201 read with Section 34 of the Indian
Penal Code.

3. The investigation is already complete and the
charge-sheet is already filed. The co-accused in the
present crime are already released on bail. There is no
direct evidence against the present applicant. The entire
case is based on the circumstantial evidence. According
to the learned A.P.P. the circumstances are last seen and
the memorandum statement of the present applicant
which led to the discovery of weapon by which the
deceased Satish was done to death.

4. Insofar as the last seen theory is concerned,
there are two statements which are at page nos.196 and

197 of the compilation. Those statements are of one Nadir Mohammad and Sagar Jaiswal. Insofar as Nadir's statement is concerned, he and the deceased were habituated of drinking beer and doing mutton parties. According to his statement on 22.03.2017, he, the deceased Satish, the co-accused Amit and Gaurav had been to the beer shop by name 'Cheers Beer Shoppe'. There they purchased beer and after consuming the same, had proceeded on their motorcycle. Insofar as the statement of Sagar Jaiswal is concerned, he states that he is owner of Cheers Beer Shoppe. His statement shows that on 22.03.2017, the deceased Satish, present applicant and the co-accused Amit had been to his shop and consumed beer. Apart from this, there is nothing in the statement of these two witnesses. The dead body of the deceased was found floating in a well. There is no connecting evidence that after consuming the beer, the applicant was in the company of the deceased.

5 Insofar as the memorandum statement is concerned, his statement is recorded on 30.03.2017 and by that he agreed to show the place where the stick was concealed. The discovery panchanama shows that the stick is recovered from an open place.

6. In that view of the matter, when the charge-sheet is already filed and looking to the availability of the aforementioned evidence, prima facie, I am of the view that further custodial presence of the applicant is not

necessary. Hence, following order is passed.

ORDER

(i) Criminal Application No.1174/2017 is allowed.

(ii) The applicant-Gaurav Bharat Umate, be released on bail in connection with Crime No.24/2017 registered with Police Station, Lohara, Yavatmal for an offence punishable under Sections 302, 201 read with Section 34 of the Indian Penal Code, on he executing P.R. Bond in the sum of Rs.50,000/- with two solvent sureties in the like amount.

(iii) The applicant shall attend Police Station, Lohara, Yavatmal once in a month i.e. on first Sunday of every month and shall be with the investigating officer between 01.00 p.m. to 05.00 p.m. till the culmination of the trial

The application stands disposed of.

JUDGE

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