

FARAD CONTINUATION SHEET No.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

CRIMINAL APPLICATION (BA) NO.1219/2017

(CHETAN DNYANESHWAR LATARE **VERSUS** STATE OF MAHARASHTRA, THR. PSO PS RAMNAGAR,
WARDHA)

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

Court's or Judge's orders

Mr. P.R. Agrawal, counsel for the applicant.
Mr. A.R. Chutke, A.P.P. for the non-applicant.

CORAM : REVATI MOHITE DERE, J.

DATE : DECEMBER 20, 2017.

Heard learned counsel for the parties.

By this application, the applicant seeks his enlargement on bail in connection with CR No.169/2016 registered with the Ramnagar Police Station, Wardha for the alleged offence punishable under Section 302 read with Section 34 of I.P.C. and Section 4 and 25 of the Arms Act.

Learned counsel for the applicant seeks bail on the ground of parity as well as on merits. Learned counsel for the applicant relied on the order of this Court by which co-accused-Akash Wadhve was released on bail. He submits that admittedly, the applicant has not assaulted the deceased with any weapon. He submits that the applicant had no motive to cause the death of the deceased and that the incident had taken place at the spur of the moment. He submitted that the complainant-Mangala had not named the applicant nor has she identified the applicant in the Identification Parade, which was held on 16.11.2016. According to the learned counsel, hence in this background, the statements of eye witnesses, naming the applicant become suspect.

Learned A.P.P. opposed the application. He submitted that there are eye witnesses to the incident, who have specifically stated that in the assault which took place on Sachin, the applicant had held Sachin's hands. He does not dispute the fact that the applicant has no antecedents.

Perused the papers. The incident in question took place on 12.10.2016 at about 8.30 p.m. The Complainant-Mangala is the sister-in-law of deceased-Sachin. It appears from the prosecution case, that the incident took place outside Sachin's house; that co-accused Nana was carrying a crowbar and another co-accused was carrying an iron bar; that the said persons were causing damage to the autorickshaw outside Sachin's house; that on hearing the same, Sachin (deceased) went out and asked them not to cause damage to the autorickshaw; and that, at that time, co-accused Nana handed over the crowbar to the applicant and pulled out a knife from his pocket and started assaulting Sachin. It is alleged that the applicant had held Sachin's hands. Admittedly, Mangala is an eye witness to the incident, however, she has not named the applicant nor has she identified the applicant in the Identification Parade, which was held on 16.11.2016. Infact, the complainant has even not stated that any of the accused held Sachin's hand pursuant to which co-accused Nana assaulted Sachin with a knife. The applicant has, however, been named by three witnesses in their statements. According to the eye-witnesses, the applicant had held Sachin pursuant to which Nana assaulted Sachin. Thus, there is discrepancy in the F.I.R. and the version of other witnesses. No motive is alleged against the applicant *qua* Sachin (deceased). The applicant has no

antecedents. This Court, *vide* order dated 28.11.2017, has enlarged co-accused Akash on bail in view of the discrepancies in the statement of the complainant and the eye witnesses.

Considering the aforesaid, the application is allowed and the applicant is enlarged on bail on the following terms and conditions;

I) The applicant, who has been arrested in Crime No.169/2016 registered with Ramnagar, Police Station, District Wardha, for the offence punishable under Section 302 read with Section 34 of I.P.C. and Sections 4 and 25 of the Arms Act, be released on furnishing P.R. Bond of Rs.25,000/- with one or two sureties in the like amount.

II) The applicant shall report to Ramnagar Police Station, District Wardha on the first Sunday of every month from 10.00 a.m. to 11.00 a.m. till the conclusion of the trial.

III) After his release, the applicant shall not enter the jurisdiction of Ramnagar Police Station, District Wardha except for attending the Police Station and the Court proceedings.

IV) The applicant shall not influence the prosecution witnesses.

V) The applicant shall cooperate in the conduct of the trial.

VI) If there is breach of any of the aforesaid conditions, the prosecution will be at liberty to apply for the cancellation of the applicant's bail.

The application is accordingly disposed of.

All parties to act on the authenticated copy of this
order.

JUDGE

APTE