

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

CRIMINAL APPLICATION (BA) NO.53/2018

Laxman Barkaji Titare ..vs.. State of Maharashtra through PSO Yavatmal
Gramin Police Station, Tq. Dist. Yavatmal.

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

Court's or Judge's orders.

Mr. V. D. Darne, Advocate for applicant.
Mr. N. R. Rode, A.P.P. for non applicant-State.

CORAM : V.M. DESHPANDE, J.

DATED : JANUARY 31, 2018

1. Heard Mr. Darne, Advocate for applicant and
Mr. Rode, A.P.P. for non applicant-State.

2. This is an application for enlargement of the
applicant on bail. The applicant is arrested in connection
with Crime No.315/2017 registered with Police Station
Yavatmal Gramin, for an offence punishable under
Sections 143, 147, 148, 149, 302, 307 of the Indian Penal
Code and Sections 4 and 25 of the Arms Act.

3. The learned counsel for the applicant
submitted that the investigation is over and the charge-
sheet is filed. In fact, the entire copy of the charge-sheet
is also filed on record. He submitted that the statements
of the eye witness who is injured by name Pravin shows
that the present applicant was not at all present at the
time of the murderous assault on him and Akash who has
lost his life in the said assault.

4. The FIR is lodged by Manda, mother of the deceased Akash. Her FIR shows that she is claiming to be an eye witness of the incident. As per the FIR, the role attributed to the present applicant is that he assaulted on the deceased by means of wooden rafter. However, the statement of injured Pravin shows that right from the beginning i.e. from 9.00 O'clock on 08.08.2017 till the assault, he was present with the deceased at the pan shop and were chewing kharra. The assault was made on both of them by other co-accused persons. His statement is silent about the presence of the present applicant. Not only that, the statement of injured Pravin shows that after assault he reached to the house of Akash and informed about the assault on Akash. Thereafter, the parents of Akash and his parents came on the spot. That shows that the first informant Manda was not the witness to the incident of assault. Also, there is statement of Anil. He has also not attributed even presence of the applicant on the spot.

5. The investigation is already over. In view of above eye witness account, even presence of the applicant on the spot becomes doubtful though it is claimed by the first informant.

6. In view of the said, I am of the view that the applicant has made out a prima facie case to release him on bail. Hence, following order is passed.

ORDER

- (i) Criminal Application No.53/2018 is allowed.
- (ii) Applicant-Laxman Barkaji Titare, be released on bail in connection with Crime No.315/2017 registered with Police Station Yavatmal Gramin, for an offence punishable under Sections 143, 147, 148, 149, 302, 307 of the Indian Penal Code and Sections 4 and 25 of the Arms Act on he executing P.R. Bond in the sum of Rs.25,000/- with two solvent sureties in the like amount.
- (iii) The applicant shall attend Police Station, Yavatmal Gramin, once in a month i.e. on the third Sunday of each month between 03.00 p.m. to 05.00 p.m.
- (iv) The applicant shall not tamper with the prosecution evidence and also shall not try to influence the prosecution witnesses.
- (v) The observations made in this order are prima facie in nature and they are made only for the purpose of deciding the present application for bail. The trial Court shall not get influenced by any of the observations made in the order.

The application is disposed of accordingly.

JUDGE

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