

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

CRIMINAL APPLICATION (BA) NO.60/2018

Parmanand s/o Dilip Bhalerao

..VS..

State of Mah., thr. PSO PS MIDC, Hingna, Nagpur

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

Court's or Judge's Order

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Shri P.A. Gode, Counsel for the applicant.
Shri M.K. Pathan, Addl.P.P. for the State.

CORAM : V.M. DESHPANDE, J.

DATED : JANUARY 29, 2018.

1. Heard learned counsel Shri P.A. Gode for the applicant and learned Additional Public Prosecutor Shri M.K. Pathan for the State.
2. The applicant is arrested in connection with Crime No.496/2016 registered against him with Police Station MIDC, Hingna, Nagpur for the offence punishable under Section 302 of the Indian Penal Code.
3. The record shows that the investigation is already over and the Trial is already commenced.
4. After hearing learned counsel Shri P.A. Gode for the applicant and learned Additional Public Prosecutor Shri M.K. Pathan for the State it appears that an eyewitness Ghanshyam and first informant Pramod are not examined by the prosecution till date

in view of their absence in the Court.

5. It is to be noted that on two occasions, Bailable Warrants were issued against them and they appeared before the Court on the returnable date. However, on the next date of recording of the evidence, they failed to appear before the Court. Consequently, their evidences were not recorded.

6. Eyewitness account of Ghanshyam, in view of his 161 statement, clearly shows that the applicant is an assailant on the person of his wife by name Rina who succumbed to the injuries due to sharp edged weapon assault on her neck.

7. The prosecution has, till date, according to learned Additional Public Prosecutor Shri M.K. Pathan for the State, examined two witnesses.

8. The entire case of the prosecution hinges on the evidence of Ghanshyam who is yet to be examined.

9. The record shows that steps to secure the presence of Ghanshyam are already taken by the prosecution and in spite of serving of the Bailable Warrants he appears to be avoiding appearing in the Court.

10. In view of the direct evidence against the applicant, in my view, this is not a fit case wherein the applicant should be released on bail. However, expeditious Trial is a right of the accused who is languishing in jail. The case cannot linger upon at sweet whims of the prosecution witnesses. If they are not appearing in the

Court, the Court should take coercive steps against such prosecution witnesses to secure their presence.

11. With the result, I pass the following order:

ORDER

(a) Learned Additional Sessions Judge-7 at Nagpur is hereby directed to expedite Sessions Trial No.342/2016 and shall dispose of the same, as early as possible and preferably within a period of 9 months from the date of receipt of this order.

(b) It shall be open for learned Judge of the Court below to take all necessary steps for procuring the presence of the first informant Pramod and eyewitness Ghanshyam.

(c) With these directions, the criminal application is dismissed.

JUDGE

!! BRW !!

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