

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

CRIMINAL APPLICATION (BA) NO.148/2018

Shrikant s/o Ramesh Guhe and anr. ..vs.. State of Maharashtra through
PSO P.S. Ajani, Nagpur.

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

Court's or Judge's orders.

Mr. R. K. Tiwari, Advocate for applicants.

Mr. V. A. Thakare, A.P.P. for non applicant-State

CORAM : V.M. DESHPANDE, J.

DATED : FEBRUARY 21, 2018

1. Heard Mr. R. K. Tiwari, Advocate for applicants
and Mr. V. A. Thakare, A.P.P. for non applicant-State.

2. The applicants are arrested in connection with
Crime No.335/2016, registered with Police Station, Ajni,
Nagpur for an offence punishable under Sections 302, 201,
120-B read with Section 34 of the Indian Penal Code read
with Section 37 (1) (3) and 135 of the Maharashtra police
Act. The applicants are arrested on 25.10.2016 and
29.10.2016 respectively and since then they are languishing
in jail.

3. The incident is dated 22.10.2016. The first
informant is not the eye witness. According to the charge-
sheet, the incident is seen by Ajay Thomre, Dilip Gupta,
Arvindkumar Adrokar, Shyamsingh Varkade and Kashiram
Rahangadle. However, these eye witnesses were not

knowing the present applicants. During the course of identification parade, none of the witnesses have identified the present applicants.

4. Learned A.P.P. for the State has heavily relied on the alleged recovery of clothes and weapon at the instance of the present applicants. Their statements are recorded under Section 27 of the Indian Evidence Act. However, their memorandum statements clearly show that they did not disclose the place where they have concealed the weapons. The recovery panchanama shows that the weapons are seized from the garbage near their house which is an open space. Therefore, at this stage, much importance cannot be attached to the said recovery.

5. Insofar as the blood stains are concerned, even as per the learned A.P.P. the blood group of the applicants is "B" and the CA report shows that the blood group of "B" and "AB". The scientific evidence is always supportive piece of evidence. There should be substantive piece of evidence to show the finger of guilt to the accused persons.

6. In the present case, since in the test identification paraded, the present applicants were not identified by the eye witnesses and much importance cannot be given to the recovery. The applicants are in jail since 2016 and there is no chance of commencing the trial in near future.

7. In view of above, following order is passed.

ORDER

- (i) Criminal Application No.148/2018 is allowed.
- (ii) Applicant No.1-Shrikant Ramesh Guhe and applicant no.2-Nilesh Bhimrao Mandaskar be released on bail in connection with Crime No.335/2016, registered with Police Station, Ajni, Nagpur for an offence punishable under Sections 302, 201, 120-B read with Section 34 of the Indian Penal Code read with Section 37 (1) (3) and 135 of the Maharashtra police Act on they executing P.R. Bond in the sum of Rs.25,000/- each with two solvent sureties each in the like amount.
- (iii) The applicants shall attend Police Station once in a month i.e. on last Saturday of every month and shall remain with the investigating officer between 02.00 p.m. to 05.00 p.m. till the culmination of trial.
- (iv) The observations made in this order are prima facie in nature and they are made only for deciding the present application for bail. The learned trial Court shall not get influenced by any of the observations made in this order.

The application is disposed of.

JUDGE