

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

Criminal Application [BA] No.185 of 2018

Rambhau Ganpatraoji Chafle

vs.

State of Maharashtra, through P.S.O. Girad, Tahsil Samudrapur, District Wardha

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

Court's or Judge's Orders

Shri R.M. Daga, Advocate for the Applicant.
Ms. Ritu Kalia, A.P.P. for the Non-Applicant/State.

CORAM : S.B. SHUKRE, J.
DATE : 20th MARCH, 2018.

Heard.

Perused the reply of the prosecution and the charge-sheet. Co-accused Satish and Vitthal have already been granted bail. While Vitthal has been granted bail by the Sessions Court subsequent to the rejection of bail application filed by this applicant and Satish was granted bail by this Court on 18/09/2017, just about a month before rejection of previous bail application of this applicant. The postmortem report discloses shock and hemorrhage due to injuries on lungs, multiple injuries on scalp and legs as the probable cause of death. This court in the order dated 18/09/2017 while granting bail to the co-accused Satish found that Satish was *prima facie* responsible in causing injuries to the scalp by means of stone weighing about 19 kgs. and this applicant as well as the other co-accused Vitthal were responsible for causing of injuries in the nature of fractures to both the legs by means of sticks. Similar role has been found to be played by this applicant, as seen from the observations contained in the order of this Court dated 27/11/2017 rejecting the bail

application of this applicant.

With such nature of the role and also the probable cause of death, I do not think that the case of this applicant would now be any more distinguishable from that of co-accused already released on bail, particularly the co-accused Vitthal, who has been granted bail subsequent to the order passed by this Court on 27/11/2017.

It is also seen that while rejecting the previous bail application on 27/11/2017, this Court had granted liberty to the applicant to file fresh bail application, if no charge was framed till 28/02/2018. However, the charge was not framed. It appears that this order of the Court was not brought to the notice of the trial Court either by the prosecution or by the accused. If the accused does not bring such an order to the notice of the trial Court, nothing much could be read into it, but when such failure is on the part of the prosecution, it would certainly reflect poorly on the prosecution. Therefore, I feel it necessary to strike a note of caution for the prosecution in this regard. I would say that whenever such orders are passed, the prosecution wing at the High Court must communicate such orders to the trial Court so that the trial Court can appropriately proceed with the trial. The learned Public Prosecutor may also think of issuing an office order in this regard entrusting the responsibility for communicating such orders to the concerned trial Courts upon some Officers or Clerks working in the prosecution wing at the High Court.

In view of above, I am inclined to grant this application on the ground of parity as well as on the ground that no charge was framed by the trial Court despite of the direction given by this Court.

The application is allowed and it is directed that the applicant be released on bail on his furnishing a P.R. Bond of Rs.50,000/- together with one solvent surety in the like sum on the following conditions :

- i. The applicant shall regularly attend the trial Court and co-operate with it in expeditious disposal of the case.
- ii. The applicant shall not tamper with the prosecution witnesses in any manner.

The authenticated copy of this order be furnished to both sides. The application is disposed of in the above terms.

JUDGE

*sdw