

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

CRIMINAL APPLICATION (BA) NO.338 OF 2018

(Vibhav s/o Vipin Gupta Vs. State of Maharashtra, P.S. Ram Nagar, Wardha,
Dist. Wardha)

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

Court's or Judge's orders.

Shri A.V. Gupta Senior Advoate, with Shri A.A. Gupta and Shri
V.J. Gupta, Advocate for the applicant.
Shri V.P. Gangane, APP for Respondent/State.
Shri P.R. Agrawal, Advocate for intervenor.

CORAM: S.B. Shukre, J.

DATE: 13-04-2018

CRIMINAL APPLICATION (APPA) NO. 658/2018

For the reasons stated in the application, the
application is allowed.

CRIMINAL APPLICATION (BA) NO.338 OF 2018

Heard.

Perused the charge sheet. Upon over all
consideration of the matter, at this stage, I find that it is
difficult to accept the contention of the learned Additional
Public Prosecutor, that prima facie no other inference as
regards the kind of culpable homicide that has occurred in
this case, is possible.

The deceased has died of one single stab wound
to his vital part but, the altercation that took place before
causing of such a stab wound would indicate that this is a

case wherein it is difficult to make any prima-facie inference at this stage as to who drew the first blood . As pointed out by Shri A.V. Gupta, learned Senior Advocate, the statement of three eye witnesses are completely silent about the serious injury sustained by this applicant in the assault. This applicant has also filed a complaint in respect of the same incident. It gives an explanation that the delay in lodging of the complaint by the applicant occurred only because the police refused to accept his report and later on, when this fact was brought to the notice of the learned Magistrate, he directed the police to make enquiry and take appropriate action.

Learned Senior Advocate argues that the prosecution's allegation that the applicant received injury by the same weapon he held and by means of which, he also assaulted the other party, cannot be believed at this stage.

The learned Additional Public Prosecutor, who has been assisted by Shri P.R. Agrawal, states that there was a possibility of this applicant having sustained injury in the road accident. He submits that this was as per the information of the eye witnesses who have given the statements against this applicant.

On going through statements of eye witnesses, I find that they are not saying anything about this applicant having sustained injury in a road accident. The discharge summary of Kasturba Hospital in respect of this applicant also shows that it was a case of assault by sharp object

which resulted in sustaining of injury over left arm by the applicant which was 12 x 4 cm elliptically deep incised wound with muscle involvement over left arm and 4 x 1 superficial incised wound over dorsum of forearm 4 cm proximal to wrist joint. The Investigating officer, it appears, has not made any investigation in respect of the injuries suffered by this applicant and this appears, prima facie, to be a case of one-sided investigation.

Charge-sheet has already been filed and in the facts of the case discussed above, I am in opinion that no purpose is going to be served by keeping the applicant behind the bar. The application deserves to be allowed.

At this stage, learned Additional Public Prosecutor submits that condition of not entering the limits of the Wardha City may be imposed as it is necessary for ensuring that the applicant does not misuse the liberty.

Imposition of such a condition can always be thought over. But, it cannot always be seen as the only solution for ensuring that the applicant does not misuse the liberty granted to him. There could be some other alternatives and stringent ways available to achieve the purpose. In the present case, I am of the view that this can be ensured by imposing some stringent conditions. The reason being that this applicant is a student and pursuing professional course at Wardha and if such condition is imposed, there is a likelihood of the career of this applicant getting spoiled altogether. Besides, the applicant does not have any criminal antecedents. The reply of the prosecution

is also silent about the investigation made in the crime registered on the basis of complaint of this applicant. It is stated that one of the offences registered in that matter is punishable under Section 324 of the Indian Penal Code. It is also not known whether the accused in that crime who belong to rival group are released on bail or not and if released whether any conditions have been imposed against those accused belonging to the group which has initiated the present crime against this applicant.

In the result, the application is allowed and it is directed that the applicant be released on bail on his furnishing a PR Bond of Rs.30,000/- together with one solvent surety in the like sum, on the following conditions.

- (1) Applicant shall attend the Police Station on every Friday and Sunday between 5 pm and 6 pm till conclusion of the trial.
- (2) Applicant shall not tamper with the prosecution witnesses in any manner.
- (3) The applicant shall regularly attend the dates fixed in the matter by the Sessions Court and shall cooperate with the Sessions Court in expeditious disposal of the case.

Disposed of.

JUDGE