

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

CRIMINAL APPLICATION (BA) NO.570 OF 2018

(Shaikh Razique Sheikh Islam ..vs.. State of Maharashtra, through PSO, PS Pusad, District Yavatmal)

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

Court's or Judge's orders

Shri M.N. Ali, Counsel for the applicant,
Shri T.A. Mirza, Addl.P.P. for the non-applicant.

CORAM : ROHIT B. DEO, J.

DATED : 06-07-2018

The applicant is arrested in Crime 26/2018 registered with Police Station Pusad for offences punishable under Sections 143, 147, 148, 149, 337, 338, 506, 326 and 302 of the Indian Penal Code and is in custody since 06-2-2018.

2. The prosecution case, as can be culled out from the first information report lodged by Vishwas Rathod is that the applicant and fourteen others accosted the informant over an earlier altercation. The prelude to the incident was the perception of the applicant and other accused that it was Vishwas Rathod who gave a tip to the owner of an agricultural field one Panjab Rathod that the applicant and others are illegally excavating sand. An altercation took place on 02-2-2018. The incident occurred at 8-00 p.m. on 2-2-2018 and the applicant and others descended at the residence of Vishwas Rathod armed with stones, iron bar and sticks. According to the

first information report, when the applicant and others started pelting stones at the relatives of the Vishwas Rathod, the deceased Suresh Chavan tried to mediate and to make the accused to see reason. It was then that the applicant assaulted Suresh Chavan on the head with an iron bar. A single blow was delivered which proved to be fatal. Suresh Chavan succumbed to injury on 05-2-2018. The learned Counsel for the applicant states and the learned Additional Public Prosecutor does not controvert that the applicant has no criminal antecedents. Even if the prosecution case is taken at face value, the single blow could have been inflicted in the hit of passion and in the altercation.

3. In this view of the matter, I do not see any justification to continue the incarceration of the applicant in jail. However, the incident appears to be a fall out of group rivalry if the say of the prosecution filed before the learned Sessions Judge is to be believed. According to the say of the prosecution, there are two groups one of the Banjara community and the other of the Mohammedan community and if the applicant is released on bail peace may be vitiated.

4. The apprehension of the prosecution can be taken care of by directing that the applicant shall not enter the territorial limits of Pusad unless he is required to do so to attend the Court hearing.

5. The application is allowed.

6. The applicant be released on bail on executing personal bond of Rs.15,000/- with one solvent surety of the like amount.

7. The applicant shall not enter the territorial limits of Pusad unless he is required to do so to attend the Court hearing or he is permitted to do so by the trial Court.

8. The applicant shall not tamper with the evidence nor shall attempt to influence the witnesses in any manner.

JUDGE

adgokar