

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

CRIMINAL APPLICATION (BA) 606 OF 2018

(Shivshankar s/o.Daryav Pardhi..vs.. State, thr PSO, PS Tiroda, Dist Gondia)

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

Court's or Judge's orders.

Shri R.V. Khaparde, counsel for applicant.
Shri S.S. Doifode, APP for non-applicant.

CORAM: ROHIT B. DEO, J.

DATE: 3rd July, 2018.

Heard.

2 The applicant is in custody since 31.8.2017 in connection with Crime 398 of 2017 registered with Police Station Tiroda for offence punishable under section 302, 323, 294, 109, 147, 148, 149 of the Indian Penal Code.

3 The submission of the learned counsel is that six co-accused are released on bail. Apart from parity, the statements of the witnesses are inconsistent qua the role of the applicant, is the submission.

4 Shri S.S. Doifode, the learned APP would submit that the applicant can not claim parity since he has played a very proactive and serious role in the assault. One witness Mohasin has stated that the applicant was armed with an Axe. The Axe is discovered and seized pursuant to section 27 – memorandum and the medical opinion is that the injuries can be caused by the said Axe, is the submission.

5 I have perused the statements of the wife of the deceased Roshani, Surendra Santosh Patle and Mohsin. It is

only Mohsin who claims that the applicant was armed with an Axe. On the other hand, Surendra Patle who according to the prosecution was an eye witness does not make any reference to the presence of Mohsin when the incident occurred. To the contrary, the statement of Surendra is that the person who was with the deceased, ran away. More importantly, the wife of the deceased Roshani has not even named the applicant much less attributed any serious role.

7 I have perused the orders passed by this Court releasing the other six co-accused on bail. Since the role attributed to the present applicant that is inflicting injuries with Axe, is a certain extent doubtful in view of the variance of the statements of the witnesses, the case of the applicant can not be distinguished from that of the other accused who are released on bail. The application is allowed.

4 The applicant shall be released on furnishing personal bond of Rs. 15,000/- with a solvent surety of like amount.

7 The applicant shall not tamper with the evidence nor shall he attempt to influence the witnesses in any manner and shall cooperate with Investigating Agency.

JUDGE