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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

NAGPUR BENCH, NAGPUR

CRIMINAL BAIL APPLICATION NO.762 OF 2018

WITH

CRIMINAL APPLICATION NO.1335 OF 2018

Umesh s/o. Narendra Dhurve ..Applicant.

V/s.

State of Maharashtra ..Respondent.

Mr.A.S.Band for the applicant.

Mr.N.B.Jawade, APP for the respondent-State.

CORAM: NITIN W.SAMBRE, J.

DATE : AUGUST 10, 2018

PC.:-

Heard the learned counsel for the applicant.

2. In Crime No.102/2017 for the offences punishable under section 302 read with 34 of the Indian Penal Code which culminated in Sessions Case No.306/2017, the learned Sessions Judge vide order dated July 16, 2018 rejected the prayer for regular bail of the applicant.

3. Mr.Band, the learned counsel for the applicant would urge that there is a delay of five days in lodging the F.I.R. and inconsistency in the statements of eye witnesses does not pinpoint the actual role of the applicant in the assault. He would try to substantiate his case from the statements of the complainant Yamunabai, Kavita, Rekhabai Ramesh.

4. According to him, the actual role of assault on deceased Divakar is attributed to Raju Durve in the complaint.

5. The learned APP strenuously opposed grant of bail to the applicant and would urge that the cause of death of deceased Divakar is head injury and there are consistent statements of the witnesses about the assault by Raju Durve and the present applicant.

6. Considered the submissions and the statements of the eye witnesses.

7. In the first statement recorded of Yamunabai on April 19, 2017, it was stated that the accused persons had packets of

chilly powder. Yamunabai then narrates that the applicant along with one Raju Durve assaulted the victim, whereas the applicant also had thrown chilly powder on the deceased.

8. The statements of Kavita and Rekhabai, etc. attributes the only role to the applicant of use of chilly powder and not of assault.

9. Apart from above, there is unexplained delay of five days in lodging the F.I.R. though the complainant claims to be the eye witness to the incident in question.

10. There are no criminal antecedents and the charge-sheet in the matter is already filed. In the aforesaid background, in my opinion, the applicant deserves to be released on bail in Crime No.102/2017 for the offence punishable under section 302 read with 34 of the Indian Penal Code upon his executing P.R. bond of Rs.25,000/- with one or two solvent sureties in the like amount.

11. The applicant shall not enter the jurisdiction of the police station till the conclusion of the trial but for attending the

trial and shall not tamper with the evidence or influence the witnesses.

12. The trial Court to hear and conclude the matter without being influenced by the observations made hereinabove.

13. The application stands disposed of in the above terms.

14. In view of the disposal of the Bail Application, the Criminal Application No.1335 OF 2018 also stands disposed of.

(NITIN W.SAMBRE, J.)