

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

CRIMINAL APPLICATION (BA) NO. 1023 OF 2018

(Akash s/o Chintaman Meshram vs. State of Maharashtra thr. PSO, PS Kalamna, Nagpur)

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

Court's or Judge's orders.

CORAM : M.G. GIRATKAR, J.
DECEMBER 05, 2018.

Heard Shri Nilesh Samundre, learned counsel for the applicant and Shri S.D. Sirpurkar, learned APP for the non-applicant – State.

The learned counsel for the applicant has submitted that the First Information Report and statement of witnesses do not disclose the name of present applicant. His application came to be rejected by the Trial Court considering his criminal antecedents. There is only a piece of evidence in respect of recovery under Section 27 of the Evidence Act. The memorandum of Article is not admissible only discovery of that article is admissible. Hence, the applicant is entitled for bail.

The learned APP is strongly objecting to the application for bail and submitted that at the instance of applicant only, a knife/ kukari is recovered.

As per the statement of witness Sachin Wasnik and other persons, the deceased was killed by them while he was coming out of his house.

From the perusal of charge sheet it appears that no specific name of the applicant is shown in the report and

also in the statement of witnesses. The only evidence is of recovery under Section 27 of the Act.

Now it is well settled that the memorandum/ confession of guilt is not admissible. Only recovery of article is admissible. Hence, the applicant is entitled for bail.

The application is allowed. The applicant be released on executing P.R. Bond of Rs.25,000/- with a solvent surety of like amount on the following conditions :

- (i) The applicant shall not tamper with the prosecution witnesses.
- (ii) He shall attend on each and every date before the trial Court.
- (iii) Breach of any above conditions will amount to cancellation of bail.

JUDGE

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