

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

CRIMINAL APPLICATION (BA) NO.1233/2017

Rohidas s/o Keshav Jadhav ..vs.. State of Maharashtra through PSO P.s.
Barshitakli, Tq. Barshitakli, Dist. Akola.

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

Court's or Judge's orders.

Mr. S. A. Mohta, Advocate for applicant.
Mr. N. Rao, A.P.P. for non applicant-State.

CORAM : V.M. DESHPANDE, J.
DATED : JANUARY 16, 2018

1. This is an application filed by the application for his enlargement on bail since he is arrested in connection with Crime No. 182/2017 registered with Police Station, Barshitakli, Dist. Akola for an offence punishable under Section 302 of the Indian Penal Code.

2. Heard Mr. S. A. Mohta, Advocate for applicant and Mr. N. Rao, A.P.P. for non applicant-State. I have also perused the reply and seen the charge-sheet which is placed on record.

3. The submission of the learned counsel for the applicant is that the applicant needs to be released on bail since the investigation is already over and the apprehension on the part of the prosecution that the applicant may tamper with the prosecution evidence can be taken care of by directing the applicant to stay away from the village. These

are the only submissions which were advanced before this Court by the applicant.

4. Deceased is one Nagesh. The FIR is lodged by his father Govardhan. The date of incident is 08.06.2017 at about 9.00 O'clock in the night. The FIR is lodged on 09.06.2017 at about 02.42 hrs. The police station is 6 km. away from the spot. Thus, it is very clear that the FIR is lodged promptly and there is no delay in lodging the FIR.

5. From the FIR, it is clear that the present applicant went to the house of the first informant. Then he invited the deceased Nagesh and took him outside his house. Had the present applicant not visited the house of the first informant, there would have been no occasion for the deceased to leave his place of residence. According to the FIR, after some time, the first informant heard shouts of his son. He heard the shouts that the present applicant has given knife blow to him. Thereafter, the first informant along with others went near the spot. Noticing their presence, as per the FIR, the present applicant ran away from the spot and the son of the first informant was lying in injured condition. He was taken to the hospital. However, his life could not be saved and he died.

6. After the criminal law was set into motion, the investigating agency swung into action immediately. After completing of some usual investigation like drawing of spot

panchanama, conducting inquest panchanama and others, it was found that the incident had occurred near pan shop of one Nitesh Rathod. Therefore, on getting this lead, the investigating officer inquired with Nitesh Rathod on the day when the FIR was lodged. Thus, on 09.06.2017 itself the statement of Nitesh was recorded. In his statement, he has stated that when the deceased and his friend Rahul were standing at that time, the present applicant came and all of a sudden he gave knife blow resulting into serious injuries. Immediately, Rahul's statement was also recorded. Rahul also stated that in his presence the applicant had given knife blow. In his statement, he has stated that the present applicant was having suspicion that the deceased is having illicit relations with his wife. Thus, there is an element of motive in the prosecution case. Further, the weapon is seized at the behest of the applicant on his memorandum statement.

7. When with this type of evidence which directly implicates the present applicant in the offence, which is punishable with life imprisonment or death, merely because the charge-sheet is filed, that cannot be the reason for releasing the applicant on bail as tried to be canvassed before this Court by the learned counsel for the applicant.

The application is therefore rejected.

JUDGE