

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

CRIMINAL APPLICATION (BA) NO.1275/2017

Kunal s/o Deorao Mahavat

..VS..

The State of Mah., thr. PSO Gondia, Tahsil and District Gondia

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

Court's or Judge's Order

.....
Shri Y.B. Mandpe, Counsel for the applicant.

Shri R.B. Gayakwad, Counsel (assist to prosecution).

Shri V.A. Thakare, Addl.P.P. for the State.

CORAM : V.M. DESHPANDE, J.

DATED : JANUARY 19, 2018.

Criminal Application (APPP) No.38/2018

1. This is an application for grant of permission to the complainant to assist the prosecution.
2. Heard learned counsel Shri R.B. Gayakwad for the complainant.
3. For the reasons stated therein, the application is allowed and disposed of.
4. The complainant is permitted to assist the prosecution.

CRIMINAL APPLICATION (BA) NO.1275/2017

1. Heard learned counsel Shri Y.B. Mandpe for the applicant, learned counsel Shri R.B. Gayakwad for the complainant to assist the prosecution, and learned Additional Public Prosecutor Shri V.A. Thakare for the State.

2. The applicant is arrested on 12.9.2017 in connection with Crime No.80/2017 registered with Police Station Gondia City for the offences punishable under Sections 307, 201, 120-B read with Section 34 of the Indian Penal Code and Sections 3/27, 4/25 of the Arms Act, 1959.

3. The investigation is over and the charge-sheet is already filed.

4. From the charge-sheet it appears that the present incident is fallout of the incident in which one Chedilal Imlah lost his life. In the said crime, Pankaj Yadav, who is injured in the present case, was one of the accused. After his bail application was rejected by this Court on merit, the investigating officer did not file the charge-sheet within a time and, therefore, he was released on default bail.

5. According to the prosecution, when said Pankaj was admitted in the hospital, since his health was not good at the time when he was under arrest, on 15.4.2016 at 08:15 in the night two persons barged into the hospital room when Pankaj's wife Sau. Lalita

Yadav, first informant, and one Dhanraj were present. That time, one person opened a fire at Pankaj, resulting into serious injury to his abdomen.

6. The First Information Report (F.I.R.) was lodged on 16.4.2016 and in the said F.I.R. itself the first informant had stated that when she saw the C.C.T.V. Footage in the hospital, she identified one Raja Sandekar, who has opened the fire towards her husband and one Nishant @ Anna Hukumchand Biriya was holding a knife. The name of the applicant is not appearing in the F.I.R..

7. According to learned Additional Public Prosecutor Shri V.A. Thakare for the State, statements of other witnesses show that the applicant was also present on the spot at the time of incident and at that time he was holding a knife in his hands. However, learned Additional Public Prosecutor Shri Thakare has stated that no role is attributed against the present applicant by any of the prosecution witnesses that he tried to give any knife blow to injured or to anybody.

8. With this type of evidence available and when the charge-sheet is already filed, in my view, the applicant has made out a case to be released him on bail. Hence, I pass the following order:

ORDER

(a) The criminal application is allowed.

(b) Applicant Kunal s/o Deorao Mahavat, be released on bail on his executing a P.R. Bond in the sum of Rs.50,000/- with two solvent sureties of the like amount, in connection with Crime No.80/2017 registered with Police Station Gondia City for the offences punishable under Sections 307, 201, 120-B read with Section 34 of the Indian Penal Code and Sections 3/27, 4/25 of the Arms Act, 1959.

(c) Looking to the previous history of assault against each other, the applicant shall not enter territorial jurisdiction of the Gondia City, till culmination of the Trial, except on dates when the case is taken up for hearing.

(d) The applicant shall furnish his residential address to the Court below before whom he shall be executing the Bail Bonds and shall also furnish his new residential address to the investigating officer.

(e) Learned Judge of the Court below before whom the Bail Bonds will be executed shall direct the applicant to attend nearest police station of his

residence twice in a month i.e. on 1st and 3rd Saturdays of every month and he shall be in the police station from 11:00 a.m. to 3:00 p.m..

(f) It is made clear that the observations made in this order are purely for deciding the application for grant of bail only and learned Judge of the Court below, who shall be trying the case, shall not get influenced by the observations made in this order.

(g) With this, the criminal application is allowed and disposed of.

JUDGE

!! BRW !!

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