

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

CRIMINAL APPLICATION (BA) NO.1283/2017

Akhil @ Kalya s/o Sindhupal Motghare ..vs.. The State of Maharashtra
through PSO P.S., Panchpaoli, Dist. Nagpur.

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

Court's or Judge's orders.

Mr. C. R. Thakur, Advocate for applicant.
Mr. N. B. Jawade, A.P.P. for non applicant-State.

CORAM : V.M. DESHPANDE, J.

DATED : JANUARY 8, 2018

1. Heard Mr. C. R. Thakur, Advocate for applicant
and Mr. N. B. Jawade, A.P.P. for non applicant-State.

2. The applicant is arrested in connection with
Crime No.11/2017 registered with Police Station,
Panchpaoli, Nagpur for an offence punishable under Sections
302, 307, 142, 147, 149, 109 and 201 of the Indian Penal
Code and Sections 4 and 25 of the Arms Act. The applicant
was arrested on 05.01.2017 and since then he is in jail.

3. The investigating officer has already completed
the entire investigation and final report is already filed
before the Court.

4. The deceased is one Gourav. The FIR is lodged
by one Rohit in respect of the incident dated 05.01.2017.
the FIR is lodged by brother of deceased. During the course

of investigation, the investigating officer has already recorded statement of one Abhishek Kamble, the injured witness. Perusal of the statement of Abhishek shows that the present applicant has not used any weapon at the time of assault either on Abhishek or on the deceased Gourav. The role attributed against the present applicant is that he used the fist blows. The learned counsel for the applicant invited my attention to the order passed by this Court on 29.08.2017 in Criminal Application (BA) No.759/2017 (Coram : V. M. Deshpande, J.) and in Criminal Application (BA) No.1023/2017 dated 29.11.2017 (Coram: A. S. Chandurkar, J.) and submitted that the role attributed against those two applicants and the role attributed to the present applicant is similar one.

5. The learned A.P.P. concurs with this statement insofar as the parity is concerned. The learned A.P.P. however submitted that the present applicant was arrested in another crime and he was released on bail and while he was on bail this crime was committed. However, it is to be noted that the prosecution has not filed any application for cancellation of bail against the present applicant in the crime in which the present applicant was released on bail.

6. Be that as it may. Insofar as the present crime is concerned, there is no recovery at the behest of the present applicant. There is seizure of clothes of the present applicant from the house which shows that there are blood stains on the collar of his shirt. It is to be noted that the

incident is dated 05.01.2017, the applicant was arrested on 05.01.2017 and the seizure is dated 08.01.2017.

Further, the learned counsel for the applicant makes a statement that the applicant shall remove himself from Nagpur District during the pendency of trial.

7. Looking to the nature of material against the present applicant and the role attributed against him, I do not find any reason to deny bail to the applicant on the ground of parity.

8. In that view of the matter, following order is passed.

ORDER

- (i) Criminal Application No.1283/2017 is allowed.
- (ii) Applicant-Akhil@ Kalya Sindhipal Motghare be released on bail in connection with Crime No.11/2017 registered with Police Station, Panchpaoli, Nagpur for an offence punishable under Sections 302, 307, 142, 147, 149, 109 and 201 of the Indian Penal Code and Sections 4 and 25 of the Arms Act, on he executing P.R. Bond in the sum of Rs.50,000/- with two solvent sureties in the like amount.
- (iii) The applicant shall not reside in Nagpur District till the completion of trial. At the time of execution of the bail bonds, the applicant shall furnish his address where he will be residing and also furnish the said residential address to the investigating officer.
- (iv) At the time of release of the applicant on bail, the trial Court shall impose a condition that he shall attend the

police station which will be in proximity of his residence.

(v) The applicant shall attend the said police station twice in a week and shall be with the investigating officer from 11.00 a.m. to 05.00 p.m. till culmination of the trial.

(vi) The applicant will be entitled only to enter the jurisdiction of Nagpur District for attending the dates of Sessions Trial. As soon as the date is over, on the very same day, the applicant shall remove himself from the territorial jurisdiction of the Nagpur District.

(vii) The applicant shall not extend any threat to the mother of the deceased either directly or indirectly. If it is noticed that he has extended any threats to the mother of the deceased, it will be open for the investigating officer to move the Court for cancellation of bail.

(viii) The observations made in this order are prima facie in nature and they are made only for the limited purpose for considering the application for bail. However, the learned trial Court shall not get influenced by any of the aforesaid observations.

The application stands disposed of accordingly.

JUDGE