

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

CRIMINAL APPLICATION (BA) NO. 66 OF 2019
(Sonu @ Rijwan Nazir Mahajan .v. State of Maharashtra)

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

Court's or Judge's Orders

Shri R.M. Daga, Advocate for the applicant.
Shri V.P. Gangane, APP for the respondent/State.

CORAM : M.G. GIRATKAR, J.
12TH FEBRUARY, 2019.

Heard.

Shri Daga, learned Counsel for the applicant has pointed out the report and statement of witness Bashir Hussain. He has submitted that the report was lodged on 18.12.2017. The applicant was arrested on 22.12.2017 and thereafter the statement of witness Bashir is recorded on 26.12.2017. As submitted by the learned Counsel for the applicant, Bashir is the relative of complainant. He could have disclosed the name of the present applicant to the complainant or to the police at the earliest. But, he did not disclose the name of the applicant. Therefore, his statement is doubtful. There is no other evidence against the applicant. Recovery is not reliable because it was common recovery and not separate recovery.

Shri Gangane, learned APP has strongly objected the application and submitted that the applicant quarreled with the police in jail and offence punishable under Sections 353, 323, 504, 506, 186 read with Section 34 of the Indian Penal Code is registered against the applicant. Therefore, he is not entitled for grant of bail.

From the perusal of report, it appears that it was

lodged against unknown person. The report was lodged on 18.12.2017. The applicant was arrested on 22.12.2017 and the statement of witness Bashir Hussain recorded on 26.12.2017. This witness is the relative of deceased and he did not disclose the name of applicant to the complainant or to the police. Therefore, his statement appears to be doubtful. Other witnesses have not stated the name of the present applicant. Common recovery under Section 27 of the Indian Evidence Act is made. Registration of crime in respect of incident in jail is a different matter. Hence, the following order.

The application is allowed. The applicant be released on bail on furnishing PR bond of Rs.50,000/- (rupees fifty thousand only) with one solvent surety in the like amount, on the following conditions.

The applicant shall not tamper the evidence of prosecution witnesses.

The applicant shall not leave the jurisdiction of trial Court without prior permission.

The applicant shall attend the trial Court on each and every date.

JUDGE

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