

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

Criminal Application (BA) No.214 of 2019
(Hardik Dipak Urgunde .vs. State of Maharashtra through PSO PS Wani,
Tah. Wani, Dist. Yavatmal)

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

Mr. M.M. Ekre, Advocate For Applicant.
Mr. V.P. Maldhure, APP for Non-applicant/State.

CORAM : Manish Pitale, J.
DATED : June 17, 2019.

The applicant herein is one of the six accused persons against whom FIR was registered on 08.02.2018 for offences under Sections 302, 143, 147, 148, 149 and 323 of the Indian Penal Code, for having brutally assaulted the victim, which resulted in his death.

2. The incident was said to have occurred on 07.02.2018 at about 9 p.m. in a crowded place wherein the six accused persons, including the applicant herein, assaulted the victim in the presence of his friends and other persons by means of weapons including *Gupti*. As a result of the assault, the victim suffered multiple injuries resulting in his death.

3. The investigation was completed and the charge-sheet was filed on 03.05.2018 in the present case. The applicant and other accused persons were arrested on 08.02.2018 on the basis of statements given by the persons who were accompanying the victim at

the time of the incident.

4. The learned counsel appearing for the applicant submitted that the recovery of the *Gupti* was at the instance of the co-accused and that, therefore, the material available against the applicant was not enough to support further incarceration of the applicant. It was also submitted that there were two accused persons who were released on bail by this Court. On this basis it is contended that since the applicant has been behind bars for more than one year, he deserved to be enlarged on bail.

5. On the other hand, learned A.P.P. pointed out that the applicant could not claim parity with the two accused persons who were granted bail because no specific act was attributed to the said persons, while in the present case the eyewitnesses have specifically stated about the role of the applicant in the assault and the weapon used by him. On this basis, it was contended that a strong *prima facie* case against the applicant is made out and the present application deserved to be dismissed.

6. Heard counsel for the rival parties and perused the material placed on record. A perusal of the statements of witnesses appended to the charge-sheet shows that as many as six eyewitnesses gave statements on 08.02.2018 i.e. the very date of registration of the FIR, clearly stating that the applicant herein brutally assaulted the victim by means of *Gupti*.

The statements of six eyewitnesses are consistent as regards the role of the applicant in the said incident. A perusal of the post mortem report shows that the victim suffered 13 injuries on his body, including multiple stab wounds, which could be clearly related to the use of *Gupti* in the said incident.

7. As regards the recovery of the *Gupti*, it is pointed out by the learned APP that the statements of the applicant and one of the co-accused recorded under Section 27 of the Indian Evidence Act, 1872 led to recovery of the *Gupti* that was actually used in the incident. The aforesaid material clearly indicates that the applicant was involved in the brutal assault on the victim and that there is sufficient *prima facie* material to make out a strong case against the applicant. In these circumstances, the possibility of the applicant influencing the witnesses if enlarged on bail cannot be ruled out.

8. In view of the above, the present application is found to be without any merit and it is dismissed.

JUDGE

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