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

Criminal Application (BA) No. 456 of 2019

Omprakash Shahu
Vs.
State Through P.S. Kalamna, Nagpur City.

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

Mr. R.R. Vyas, Advocate for applicant.
Mr. V.P. Maldhure, APP for non-applicant.

CORAM : MANISH PITALE, J.

DATED : JULY 29, 2019

The applicant herein has approached this Court seeking bail as he stood arrested on 18/11/2018, in connection with FIR registered on the same day. Although, initially offences in the present case were registered under Sections 307 and 323 R/w 34 of the Indian Penal Code and Section 135 of the Bombay Police Act, 1951, upon the death of the victim offence under Section 302 of IPC was added against the applicant and the co-accused person.

2. The allegation against the applicant is that on the date of incident, just past mid night he along with co-accused entered the house of his own father, who was living with the step-mother of the applicant. It is alleged that the applicant picked up quarrel with the step-mother (complainant herein) and when his

step brother intervened a scuffle ensued wherein the co-accused also participated. This ultimately resulted in the applicant allegedly holding his own father and the co-accused assaulting the father of the applicant by means of knife, leading to serious injuries and ultimately the death of the victim.

3. Charge-sheet in the present case was filed on 06/01/2019 and statement of witnesses on record indicate the involvement of the applicant in the said incident.

4. The learned counsel for the applicant has sought to bring to the notice of this Court certain discrepancies in statement of the witnesses, in so far as the exact role attributed to the applicant is concerned. It was further submitted that the applicant has no criminal antecedents and that although the quarrel started on a very small issue, it ultimately resulted in the incident leading to registration of offences. It was submitted that looking to the background of the applicant and also because he has remained behind bars since 18/11/2018, the present application deserves to be allowed.

5. The learned APP has strongly opposed the grant of bail in the present case, pointing out that the applicant was involved in a serious offence and that he had caused the death of his own father. The attention

of this Court was invited to paragraph No.4 of the reply affidavit on behalf of the non-applicant State, wherein it is pointed out that there was every possibility of the applicant indulging in similar offences and tampering with the evidence, as well as influencing the witnesses.

6. The record shows that the applicant is behind bars since 18/11/2018 and that investigation has been completed by filing of charge-sheet on 06/1/2019. The material on record does indicate the presence and involvement of the applicant in the incident in question, leading to registration of aforesaid FIR. The discrepancies sought to be highlighted by the learned counsel for the applicant regarding exact role attributed to the applicant, appear to be minor and as to what impact they would have on the trial would be a matter of the Trial Court to take into consideration. At the same time, it appears that there are no criminal antecedents of the applicant and that the quarrel seems to have been initiated on a minor issue, in the backdrop of the father of the applicant having raised another family with the complainant.

7. Considering the entire material on record, it appears that the present application can be allowed by imposing stringent conditions, as the apprehension expressed on behalf of the non-applicant State is to be taken into consideration.

8. In view of the above, the present application is allowed and the applicant is directed to be released on bail on the following conditions.

a) The applicant shall furnish PR bond of Rs.25,000/- (Rs. Twenty Five Thousand) and surety in the like amount.

b) The applicant shall not enter Nagpur City during pendency of the trial.

c) The applicant shall attend proceedings before the Trial Court on each and every date and only for this purpose, he shall be permitted to enter Nagpur City.

d) The applicant shall upon being released on bail immediately place on record before the Trial Court details of his place of residence and address outside the city of Nagpur.

e) The applicant shall attend the local Police Station in whose jurisdiction he resides, twice in a month i.e. on 2nd and 4th Sunday between 10:00 AM to 5:00 PM.

f) The proof of applicant having attended Police Station as aforesaid shall be placed on record before the Trial Court from time to time.

g) If there is any change of residence or address of the applicant outside the city of Nagpur during pendency of the trial, the applicant shall immediately inform the Trial Court about the same and the condition of reporting twice a month to the local police station shall continue to apply.

9. Needless to say that violation of any of the conditions stated above would lead to cancellation of bail granted to the applicant.

10. It is made clear that the observations made in this order are limited to the question of grant of bail to the applicant.

JUDGE

MP Deshpande