

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

Criminal Application (BA) No.510 of 2019
(Pawan @ Paidal Shishupal Pariwale .vs. State of Maharashtra through
PSO PS Paratwada, Dist. Amravati)

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

Court's or Judge's orders.

Mr. P.R. Agrawal, Advocate for Applicant
Mr. A.D. Sonak, APP for Non-applicant/State.

CORAM : Manish Pitale, J.
DATED : July 22, 2019.

The applicant herein has approached this Court seeking bail as he stood arrested on 01.12.2018 in connection with FIR dated 14.11.2018 registered against him and two other accused persons for allegedly having assaulted the victim (brother of the complainant) and caused his death in an incident that took place on 13.11.2018. The FIR was registered under Section 302 read with 34 of the Indian Penal Code.

2. In the initial report given by the complainant leading to registration of FIR, it was alleged that when the complainant took his brother i.e. the victim on motorcycle and dropped him at a particular place, the accused persons assaulted the victim. The allegation against the applicant was that he caught hold of the victim while the accused no.1 Deepak assaulted the victim with a sharp edged weapon and the third accused person was exhorting the accused no.1 to kill the victim. In the initial report itself, a reference has been made to

enmity between accused no.1 and the victim. About 10 days after the FIR was registered and the accused no.1 was arrested, on 24.11.2018, a supplementary statement of the complainant was recorded, wherein there appears to be some difference in describing the manner in which the incident took place but the substantial allegation against the accused appeared to be similar.

3. The learned counsel for the applicant while inviting attention of this Court to various documents on record including the initial report, supplementary report and statements of certain witnesses, submitted that even if the version as claimed by the complainant was to be taken into consideration, the thrust of the allegation was against the main accused i.e. accused no.1 Deepak and that the variances in the versions in the two statements of the complainant as well as the statements of other witnesses, indicate that there was doubt about the manner in which the incident had taken place. It was also pointed out that there was no enmity pointed out between the applicant and the deceased.

4. The learned APP has opposed the present application contending that the applicant is accused of serious offence and that there is sufficient material on record to implicate the applicant in the present case.

5. Having perused the material on record and upon hearing the learned counsel for the rival parties, it appears that while initially the incident was described in

a particular manner, in the supplementary statement given after about 10 days, the complainant has incorporated certain details which were absent in the initial version, although the role attributed to the applicant in both the versions that he caught hold of the victim while accused no.1 assaulted him is the same. The main cause for the said assault was alleged enmity between the deceased and the accused no.1, while no such aspect was indicated in the context of the applicant.

6. A perusal of the statements of the witnesses recorded during the course of investigation indicated that the description of the incident is not consistent and since there was enmity between the accused no.1 and the deceased, there could perhaps be reason for the accused no.1 to have carried out the assault but the involvement of the applicant and the nature of role ascribed to him, on the basis of material presently on record, shows that the prosecution may have put in lot of effort to prove the guilt of the applicant.

7. Although it is pointed out that the applicant has criminal antecedents and that there could be apprehension about his influencing witnesses, the said aspect can be taken care of by imposing appropriate conditions while granting bail.

8. On the basis of the above, this Court is of the opinion that conditional bail can be granted to the applicant. Accordingly, the present application is

allowed and the applicant is directed to be released on bail on the following conditions:-

- a) The applicant shall furnish P.R. Bond of Rs.25,000/- (Rs. Twenty Five Thousand) and a surety in the like amount.
- b) The applicant shall attend Police Station Paratwada, district Amravati, twice a month i.e. on second and fourth Sunday between 10 a.m. and 5 p.m.
- c) The applicant shall attend the proceedings before the trial Court on each and every date.
- d) The applicant shall not enter jurisdiction of Police Station Paratwada, except for attending the said Police Station as noted above and proceedings before the Sessions Court at Paratwada.
- e) The applicant shall inform the trial Court about his place of residence while staying outside the jurisdiction of Police Station Paratwada, and any change in the same, during the pendency of the trial.
- f) The applicant shall not influence witnesses.

9. Needless to say, in case the applicant violates any of the conditions noted above, the bail granted to him will be liable to be cancelled. It is clarified that the observations made in this order are limited to the question of grant of bail to the applicant.

JUDGE