

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

Criminal Application (BA) No.588 of 2019
(Ritu s/o Raju Kisawal .vs. State of Maharashtra through PSO PS Ambazari,
Nagpur.)

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

Court's or Judge's orders.

Mr. M.V. Rai, Advocate for Applicant
Mr. A.D. Sonak, APP for Non-applicant/State.

CORAM : Manish Pitale, J.
DATED : August 09, 2019.

The applicant has approached this Court seeking bail as he stood arrested on 04.05.2018 in connection with FIR dated 03.05.2018 registered against him and another accused person for offence under Section 302 read with 34 of the Indian Penal Code.

2. The allegation against the applicant and the co-accused is that they caused the death of the brother of the complainant.

3. As per the report lodged on 03.05.2018 by the complainant, he was informed by one Sandip that his brother i.e. the victim, was having a quarrel with some persons outside a public toilet. It is claimed by the complainant that when he went to the spot of the incident, alleged eyewitness Aakash informed him that the applicant and the co-accused had caused the death of the victim by inflicting injury on his head.

4. A perusal of the material on record shows that the complainant has lodged the report on the basis of information given by the aforesaid alleged eyewitness

Aakash. Even as per the version of the incident told by the said eyewitness to the complainant, the role attributed to the present applicant was that during the course of the quarrel he held the victim while the co-accused person inflicted the injury on the head of the victim by means of wooden rafter.

5. It is also pointed out by the learned counsel for the applicant that the statement given by the aforesaid Sandip who is alleged to have informed the complainant about the quarrel, shows that the said eyewitness Aakash had come to the shop of the said Sandip and used his mobile phone to inform the complainant about the incident. In the statement of Sandip, it is not stated that while the said eyewitness Aakash has described the incident, he named the applicant or the co-accused in any manner. All that was stated was that there had been a quarrel in which the victim was involved and that he had suffered injuries and further that the Police had taken him to the hospital for treatment. It is further informed by the learned counsel for the applicant that the said alleged eyewitness Aakash has died.

6. Although the learned APP has opposed the grant of bail in the present case, the facts and circumstances as they presently emerge from the material on record, do indicate that the role attributed to the applicant was that of having held the victim during the course of the quarrel and the fatal blow was inflicted by the co-accused person. The death of the alleged eyewitness Aakash may not be of much relevance at present, but even if the description of the

incident as given by the said witness was to be accepted, the aforesaid limited role was attributed to the applicant herein. Apart from this, the said eyewitness Aakah while describing the incident on phone to the complainant, had never named the applicant or the co-accused. This also appears to be a relevant circumstance while considering the application for grant of bail.

7. In view of the aforesaid circumstance noted by this Court, a case for grant of bail has been made out by the applicant, but subject to imposition of stringent conditions. Accordingly, the present application is allowed and the applicant is directed to be released on bail in connection with Crime No. 86 of 2018 registered at Police Station Ambazari, Nagpur, 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 the proceedings before the trial Court on each and every date.
- c) The applicant shall report to Police Station Ambazari, district Nagpur, once every month i.e. on the second Sunday of the month between 10 a.m. and 5 p.m.
- d) The applicant shall not tamper with the evidence or influence witnesses.

8. Needless to say that violation of any of the conditions noted above, may lead to cancellation of bail granted to the applicant. It is clarified that the

observations made in this order are limited to the question of grant of bail to the applicant.

JUDGE

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