

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

CRIMINAL APPLICATION (BA) NO.681/2019

Panjab s/o Sitaram Shegokar and ors

..VS..

State of Mah., thr. PSO PS Shegaon City, Taluka Shegaon, District Buldhana

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

Court's or Judge's Order

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Shri H.M.Mohta, Counsel for Applicants.

Shri J.Y.Ghurde, Addl.P.P. for the State.

CORAM : V.M.DESHPANDE, J.

DATED : SEPTEMBER 5, 2019.

1. This is an application filed on behalf of 4 applicants for their release on bail. These applicants are arrested in connection with Crime No.138/2019 registered with Shegaon City Police Station, District Buldhana for offences under Sections 143, 147, 148, 149, 302, and 324 read with Section 452 of the Indian Penal Code.

2. Heard learned counsel Shri H.M.Mohta for applicants, learned Additional Public Prosecutor Shri J.Y.Ghurde for the State, and Ms Sonali Khobragade assisted by learned counsel Shri M.V.Rai who assisted learned Additional Public Prosecutor.

3. It is submission of learned counsel for applicants that out of total 10 accused persons, co-accused Varsha and Padma, whose names also appeared in First Information Report, are released on bail by Trial Court. It is

also his submission that other co-accused i.e. Snehal, Himmat, and Kalpana, whose names also figured in First Information Report, are released on anticipatory bail by this Court. It is, therefore, his submission that on the principle of parity, the present application of applicants is required to be considered favourably. His another limb of submission is that main allegations are against co-accused Bharat about assault on Akshay due to which he lost his life. He submitted that investigation is over and chargesheet is filed. Therefore, applicants be released on bail. He submitted that even applicants are ready to stay outside Shegaon City if they are released on bail.

4. *Per contra*, submission of learned Additional Public Prosecutor Shri J.Y. Ghurde for the State and learned counsel Ms Sonali Khobragade, is that there is a definite case against applicant No.4-Mukinda that he assaulted first informant Jyoti and if applicants are released on bail, there is a possibility that they will pressurize prosecution witnesses and, therefore, their application be rejected.

5. Perusal of chargesheet would reveal that first informant Jyoti is mother of deceased Akshay and also another son Ashish. This Ashish was having love affair with Sakshi, the daughter of co-accused Bharat, and the said love affair was steadily going on. As soon as Sakshi attained age of majority, Ashish and Sakshi married with each other. Prior to their marriage, when family members of Sakshi were knowing the love affair, she was sent to her maternal uncle's

house at Wadegaon.

6. The report lodged by Jyoti discloses that on 21.3.1991 Ashish made a phone call to first informant Jyoti and informed her factum of his marriage with Sakshi. On the date of incident i.e. on 22.3.2019 at about 8:45 p.m., after closing down her grocery shop, Jyoti came to her house that time, Akshay was present in the house. As per the report, applicants and other co-accused barged into her house and at that time they were armed with deadly weapons. They were shouting and enquiring about whereabouts of her son Ashish. At that time, the first informant's elder son Akshay was noticed by them and immediately Bharat assaulted him by giving successive knife blows on his chest and abdomen. When Jyoti tried to intervene, applicant No.4-Mukinda assaulted her by means of iron pipe which landed on her back. As per the report, other companions of Bharat assaulted Akshay by means of weapons, kick and fists blows. With assistance of neighbourers, Jyoti took her son to hospital, where he took his last breath.

7. During investigation, first informant Jyoti was sent for her medical examination. Investigating Officer also recorded statement of Ashish, Prafulla, Aatish, Shivraj, Baby, and Chhaya amongst others. Aforementioned witnesses, according to the prosecution, are eyewitnesses to ghastly assault on Akshay. Perusal of their statements clearly support and corroborate version of the first informant about

assault on the day of the incident.

8. The First Information Report and statements of eyewitnesses show that Akshay was assaulted on vital parts of his body by means of knife by Bharat.

9. Postmortem report is available on record and column No.17 of the postmortem shows stab injuries on chest and abdomen of Akshay. The postmortem report does not show any internal damage to brain or other parts of the body. Other internal injuries are commensurate to injuries appearing in column No.17. Cause of death, according to Autopsy Surgeon, is *“injury to vital organs including both lungs and heart caused death.”*

10. Neither first informant Jyoti nor any of eyewitnesses attributed any role to applicants that they assaulted Akshay by means of sharp weapons or weapon which could cause stab injuries. On the contrary, the First Information Report and corroborative statements of eyewitnesses show that when Jyoti tried to intervene, applicant No.4-Mukinda assaulted her by means of iron pipe. Injury report is attached along with chargesheet. The said injury report shows that Jyoti suffered 3 contusions and one liner abrasion.

11. Role attributed to the other applicants is identical to role attributed to accused, who are either released on regular bail or on anticipatory bail. Therefore, applicant Nos.1 to 3 are surely entitled for bail on the principle of parity. In addition to that, no allegation is their

against them that they assaulted by any sharp weapon.

12. No doubt true that so far as applicant No.4-Mukinda is concerned, his name is being taken by prosecution witnesses and specific role is ascribed to him that he assaulted Jyoti.

13. From the First Information Report and from eyewitnesses account it is clear that Jyoti was not assaulted by means of iron pipe on vital parts of her body, however even according to Jyoti, on her back, she was assaulted and injury report shows that no serious injury on her person.

14. Investigation is over and chargesheet is already filed. Insofar as fear in the mind of first informant is concerned that applicants will try to tamper prosecution witnesses, the said can be taken care of by imposing stringent conditions upon them.

15. In this view of the matter, I pass following order:

ORDER

(a) The criminal application is allowed.

(b) Applicants Panjab s/o Sitaram Shegokar, Sindhu s/o Mukinda Shegokar, Amar s/o Mukinda Shegokar, and Mukinda s/o Sitaram Shegokar, in connection with Crime No.138/2019 registered with Shegaon City Police Station, District Buldhana for offences under Sections 143, 147, 148, 149, 302, and 324 read with Section 452 of the Indian Penal Code, be released on bail on their executing a P.R.Bond in

the sum of Rs.25,000/- by each of them with one solvent surety of the like amount by each of them.

(c) Applicant are directed not to enter territorial jurisdiction of Shegaon City, District Buldhana, till Trial is over.

(d) Applicants are directed to furnish their addresses of residence to which they will be residing after they are released on bail to learned Additional Sessions Judge before whom they will be executing Bail Bonds.

(e) Learned Judge of the Court below before whom the Bail Bonds will be executed, is directed to issue appropriate orders directing applicants to attend nearest police station of their residence once in a week i.e. on every Saturday and shall mark their presence between 3:00 p.m. and 5:00 p.m., till the trial is over.

(f) Applicants are directed not to give any type of threat to any of prosecution witnesses.

(g) With this, the criminal application is disposed of accordingly.

JUDGE

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