

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

CRIMINAL APPLICATION (BA) NO.896 OF 2019

Istakulla Khan Ashfaqulla Khan Patel .Vs. State of Maharashtra, PSO,
Akot Rural, Tq. Akolt, Dist. Akola.

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

Mr. Abhay Sambre, Advocate for applicant.
Mr.S.S. Doifode, A.P.P. for non applicant-State.

CORAM : V. M. DESHPANDE, J.
DATED : OCTOBER 09, 2019

Heard Mr.Sambre, learned counsel for the applicant and Mr.Doifode, learned Additional Public Prosecutor for the non applicant-State. Also perused the charge-sheet which is placed on record.

The applicant is arrested on 26.05.2019 in connection with Crime No.234/2019 registered with Police Station, Akolt Rural, Tq. Akot, Dist. Akola for an offence punishable under Sections 143, 147, 148, 149, 294, 307, 324, 452, 302 of the Indian Penal Code.

The first information report is lodged by Inayatkhani Miyakhan Pathan on 25.05.2019. The name of the person figured in the first information report as accused at serial no.9. Deceased in the crime is one Matin Patel.

One Shoiabulla Khan, the co-accused against whom the allegations were that he assaulted on the backside of the head of the deceased by means of iron rod, had filed

bail application before this Court i.e. Criminal Application (BA) no.884/2019. The said application is decided by this Court on 03.10.2019. While discussing the prosecution case in the said bail application, it was made known to this Court that a counter first information report i.e. Crime no.235/2019 was lodged by Fateh Rafat Patel and in the assault the said informant had also suffered fracture injuries. It was also observed that there are two groups and when the group belonging to the present applicant tried to assault on Fateh Rafat Patel, he duck the assault made on him and the said assault landed on the frontal portion of the head of the deceased Matin Khan resulting into his death. This Court in the said bail application, after noticing the said fact that Shoibulla Khan *prima facie* cannot held responsible for the death of Matin Khan, was pleased to release him on bail.

In the present case no specific role is attributed against the present applicant. According to the learned Additional Public Prosecutor, the applicant was a member of unlawful assembly. The investigation is over and the charge-sheet is already filed. In that view of the matter, in my view, applicant can be released on bail. Consequently, I pass following order.

ORDER

- (i) The criminal application is allowed.
- (ii) Applicant- Istakulla Khan Ashfaqulla Khan Patel be released on bail in connection with Crime No.234/2019 registered with Police Station, Akolt Rural, Tq. Akot, Dist.

Akola for an offence punishable under Sections 143, 147, 148, 149, 294, 307, 324, 452 and 302 of the Indian Penal Code, on he executing P.R. Bond in the sum of Rs.25,000/- with one solvent surety in the like amount.

(iii) The applicant is directed to not to enter territorial jurisdiction of village Mohala till culmination of trial.

(iv) Applicant is directed to furnish address of his residence before the learned Court below before whom he will be executing his bail bonds and the said learned Judge shall direct the applicant to attend the police station nearest to his place of residence, once in a month i.e. on Sunday of every month, till culmination of the trial.

(v) The observations made in this order are only for deciding this application. The learned Judge of the trial Court before whom the trial will be conducted should not get himself influenced by it.

(vi) The application is allowed and disposed of.

JUDGE

srwagh