

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

CRIMINAL APPLICATION (ABA) NO.688/2019

Awdhoot Sitaram Dable

.vs.

State of Maharashtra, thro. PSO, P.S. Ner, Tah. & Distt. Yavatmal

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

Court's or Judge's orders.

Mr. Atharv Manohar, Advocate for the applicant.

Mr. M. K. Pathan, A.P.P. for the non applicant.

CORAM : V. M. DESHPANDE, J.

DATED : NOVEMBER 20, 2019

Heard Mr. Atharv Manohar, learned counsel for the applicant and Mr. M. K. Pathan, learned A.P.P. for the non-applicant-State.

2] The applicant is apprehending arrest in connection with Crime No. 713/2018 registered with Police Station Ner, Distt. Yavatmal for the offences punishable under Sections 302, 326, 120-B read with Section 34 of the Indian Penal Code.

3] The incident in question took place on 30.12.2018 in which Mahesh Tayade was assaulted. He was admitted in the hospital. On 30.12.2018, his statement was recorded in presence of medical officer by Police Sub Inspector of Police Station Ner. On the basis of the said,

crime was registered vide C.R.No. 713/2019 against one Ajay Dabale under Section 326 of the Indian Penal code.

4] As per the statement of injured Mahesh Tayade, on the date of the incident i.e. on 30.12.2018 at 8:30 morning when he had been to his agricultural field for irrigating wheat crops that time Ajay Dabale, Piyush Dabale and one unknown person came in his field and Piyush Dabale and unknown person caught Mahesh and thereafter, Ajay Dabale assaulted on his person by means of dagger. During medical treatment, Mahesh expired on 03.01.2019, therefore, the offence was converted for the offence punishable under Section 302 of the Indian Penal Code. Ajay Dabale was arrested on 04.01.2019. During the investigation identity of unknown person which has a reference in his Statement dated 30.12.2018 is revealed as Prathmesh Giri.

5] From the statement of Mahesh which would be a dying declaration it is clear that the applicant was not present on the spot and he was assaulted by Ajay Dabale.

6] According to the prosecution, the present applicant who is father of Ajay has hatched conspiracy alongwith others to eliminate Mahesh. According to the prosecution, the said conspiracy has revealed in view of the statement of Ajay when he was in police custody.

7] The learned A.P.P also pointed out the statement of Pratibha from the charge-sheet which shows that when she was proceeding for answering nature's call she overheard name of Mahesh Tayade and therefore, she peeped from the window and at that time the present applicant was found in company of Ajay and other accused persons. Except this there is no evidence against the present applicant.

8] All accused persons except Ajay are released on bail.

9] Looking to the nature of the accusation as stated in the reply which has a base of statement from co-accused I am of the view, that the present is a case wherein this Court should exercise discretion in favour of the applicant. That leads me to pass following order :

ORDER

- (i) Application is allowed.
- (ii) In the event of arrest in connection with Crime No. 713/2018, registered with Police Station Ner, Yavatmal, for an offence punishable under Sections 326, 302, 120-B read with Section 34 of the Indian Penal Code, applicant-Awdhoot Sitaram Dabale, be released on bail on he executing P.R. Bond of Rs.10,000/- with one solvent surety in the like amount.

(iii) The applicant is directed to attend Police Station Ner, Distt. Amravati once in a week for next two months. The applicant shall attend police station on every Sunday and shall be with the investigation officer from 2:00 p.m. to 5:00 p.m.

With this application stands **disposed of**.

JUDGE

Namrata