

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

CRIMINAL APPLICATION (ABA) NO.715 OF 2019

Amol s/o Shankarrao Khandekar .Vs. State of Maharashtra, PSO, P.S.
Kelwad, Nagpur.

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

Mr. B.R. Trivedi, Advocate for applicant.

Mr. N.B. Jawade, A.P.P. for non applicant-State.

CORAM : V. M. DESHPANDE, J.

DATED : NOVEMBER 05, 2019

Initially, Advocate Mr. C.R. Thakur used to appear for the applicant in the matter.

Advocate Mr. C.R. Thakur submits that the applicant has taken away brief from him and he has already given No Objection.

Mr. B.R. Trivedi, the learned counsel for the applicant has already filed his power as it could be seen from the office note.

In this view of the matter, Advocate Mr. C.R. Thakur is discharged.

Heard Mr. Trivedi, learned counsel for the applicant and Mr. Jawade, learned Additional Public Prosecutor for the non applicant-State. Also perused the reply filed on behalf of the prosecuting agency.

Applicant is apprehending his arrest in connection with Crime No.214/2019 registered with Police

Station, Kelwad, Dist. Nagpur for an offence punishable under Sections 307, 323, 504, 506, 143, 147 and 149 of the Indian Penal Code.

The submission of the learned counsel for the applicant is that other six co-accused are already released on anticipatory bail by the learned Additional Sessions Judge, Nagpur on 30.09.2019 and the role attributed to the present applicant is identical to the role attributed to those six co-accused persons. He, therefore, submits that the applicant is entitled to be released on bail on the principle of parity. He also submits that the custodial presence of the applicant is not necessary and he is ready to abide conditions imposed on him.

Per contra, Mr. Jawade, learned Additional Public Prosecutor for the State submits on the basis of the investigation papers that the role of the present applicant is totally different than the role attributed to co-accused persons who are released on anticipatory bail by the Court below. Therefore, he submits that applicant is not entitled on the principle of parity.

The first information report is lodged by one Kailash Gandhi. It is lodged on 14.09.2019 in respect of the incident occurred on 14.09.2019 itself. Though it is the submission of the learned counsel for the applicant that there is delay of six hours in lodging the first information report, the prosecution is entitled to explain the said delay during the course of the trial.

According to the first information report, the complainant and his brother Girish were assaulted initially by seven accused persons including the present applicant by fists and kicks blows and thereafter the poisons substance was administered to his brother Girish resultantly he felt unconscious and was required to take him to the hospitalize.

The learned Additional Public Prosecutor for the State placed before me the statement of the eye witness Anil Kamli which clearly shows that applicant is a person who administered poisons substance to the injured Girish. Similarly, the statement of the injured Girish would show that the present applicant is a person who has done overt act of administering poisonous substance. With the grace of god the injured has survived due to the immediate medical help given to him.

In view of the fact that the applicant has tried to kill a person by administering the poisonous substance, in my view, the applicant is not entitled for any discretionary relief.

The criminal application is rejected.

JUDGE

srwagh