

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

CRIMINAL APPLICATION (BA) NO. 1075 OF 2019

Manoj s/o Subhash Tayde .Vs. State of Maharashtra,through P.S.O, P.S.
Kholapuri Gate, Tah. and Dist. Amravati.

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

Court's or Judge's orders.

Mr. S.N. Bawangade, Advocate for applicant.
Mr. S.M. Ghodeswar, A.P.P. for non applicant- State.

CORAM : V. M. DESHPANDE, J.
DATED : DECEMBER 03, 2019

Heard Mr. Bawangade, learned counsel for the applicant and Mr. Ghodeswar, learned Additional Public Prosecutor for non applicant-State. Also perused the reply as well as entire charge-sheet which is placed on record.

Applicant is arrested on 15.02.2019 in connection with Crime No.56/2019 registered with Police Station, Kholapuri Gate, Tah. and District Amravati for an offence punishable under Sections 143, 147, 148, 149, 120B and 302 of the Indian Penal Code and under Sections 4, 25 of the Arms Act and under Section 135 of the Maharashtra Police Act.

The report on the basis of which the crime was registered is lodged by Mahesh Watkar, a friend of deceased Yogesh. As per the first information, on 14.02.2019, he along with deceased and deceased's brother Avinash alias Shiva were proceeding to Itwara bazar for purchasing *Biryani*. However, instead of purchasing *Biryani*, they took

Kharra from a pan shop and when they came inside Jawahar Gate at that time co-accused Kurshna Lokhande stopped his vehicle and there was verbal altercation between Krushna and Avinash alias Shiva. Thereafter said Krushna gave a call to his associates and on hearing his call, co-accused including present applicant came and started assaulting on deceased, first informant Mahesh and deceased's brother Avinash alias Shiva. It is stated in the report that present applicant and co-accused Krushna were having knife in their hands. All other co-accused person caught hold of the deceased and thereafter the present applicant Manoj gave knife blow on right thigh of the deceased, resulting into bleeding. He was taken in the hospital. However, he succumbed to the injury. Another eye witness Shiva who is brother of the deceased, his police statement would also show that in the assault the present applicant gave a knife blow on the right thigh of the deceased. The postmortem report corroborates their version that there is a single injury on the right thigh.

The applicant is in jail since 15.02.2019. The investigation is over and charge-sheet is already filed. All other co-accused were already released on bail. Looking to the fact that there is a single injury and the applicant was not knowing that place on which he is giving the knife blow is a vital part of the body, in my view, during the trial it is quite possible that the offence may be scaled down for the lesser one. Resultantly, I pass the following order:

ORDER

- (i) The application is allowed.
- (ii) Applicant- Manoj s/o Subhash Tayde be released on bail in connection with Crime No.56/2019 registered with Police Station, Kholapuri Gate, Tah. and District Amravati for an offence punishable under Sections 143, 147, 148, 149, 120B and 302 of the Indian Penal Code and under Section 4, 25 of the Arms Act and under Section 135 of the Maharashtra Police Act, on he executing P.R. Bond in the sum of Rs.10,000/- with one solvent surety in the like amount.
- (iii) The applicant is directed to attend Police Station, Kholapuri Gate, Tah. and District Amravati twice in a week i.e. on every Wednesday and Sunday and shall be with the investigating officer from 02:00 p.m. to 05:00 p.m. till filing of the charge-sheet.
- (iv) Applicant shall attend all Court dates scrupulously.
- (v) The observations made in this order are made only for deciding this application. The learned Judge of the trial Court before whom trial will be conducted shall not get himself influenced by the same.

The application is disposed of.

JUDGE