

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

CRIMINAL APPLICATION (BA) NO.1122/2019

Sachin Prakash Mathale .vs. State of Maharashtra through PSO P.S.
Kalamna, Nagpur.

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

Court's or Judge's orders.

Mr. Sumedh Kadam, Advocate for applicant.
Mr. V. A. Thakare, A.P.P. for non applicant-State.

CORAM : V. M. DESHPANDE, J.
DATED : DECEMBER 13, 2019

Heard Mr. Kadam, learned counsel for applicant
and Mr. Thakare, learned A.P.P. for non applicant-State.
Also perused the reply filed on behalf of non applicant-State.

2. The applicant is arrested on 15.03.2019 by
Police Station Officer, Kalamna, Nagpur in connection with
Crime No.166/2019 registered with Police Station, Kalamna
for an offence punishable under Sections 302, 143, 147, 148
and 149 of the Indian Penal Code (IPC), Sections 4 and 25 of
the Arms Act and Section 135 of the Maharashtra Police Act.

3. The investigation is over and charge-sheet is
already filed.

4. Deceased in this crime is Shaikh Irfan Shaikh
Abdul Razak. Incident in question has occurred five minutes

earlier to the midnight of 14.03.2019 near Hanuman Temple, Gulshan Nagar, Nagpur.

5. First Information Report is lodged by Ganesh Dabre, Police Constable, who was part and parcel of the police unit which was discharging its duty. In their beat, Gulshan Nagar falls. According to the report, when Ganesh Dabre along with Police Constable Vasanta were doing patrolling duty, that time they received an intimation from walkie-talkie from Police Control Room that near Tarale Flour Mill, a dispute is going on. Therefore, they reached there. However, they noticed a dispute between husband and wife. Therefore, after giving a word of advise they proceeded for further patrolling. At that time, again they received an intimation from the Control Room. Upon that they reached near Hanuman Temple at 23:50 hrs. They noticed the mob and that mob was assaulting on a person by means of brick and sword. Taking cognizance of presence of the police party, the mob spread. The police party noticed one person falling in injured condition. He was identified as Shaikh Irfan Shaikh Abdul Razak. He was taken to the hospital. However, he could not be saved.

During the course of investigation, supplementary statement of Ganesh Dabre, Police Constable who lodged the report is also recorded. His supplementary statement would reveal that at the time of incident, electric light was in illuminating condition and therefor he could notice presence of accused persons including the present

applicant. However, according to the statements, the iron sword was held by co-accused person Abhinay Gosai and Viju Barapatre was assaulting with the help of bricks. Though role is attributed against the present applicant, the role attributed to him is that along with others, he was assaulting by means of fist blows. Similar is the statement of Vasanta Thombare, another police constable who was part and parcel of police squad. Ramesh Parote and Ramesh Parve are the residents of Gulshan Nagar. They are also eye witnesses and their statements would show that deceased was assaulted by Abhinay Gosai and Viju Barapatre by respective weapons in their hands and the role attributed to present applicant is that he assaulted by fist blows.

Charge-sheet contains personal search panchanama of applicant in presence of the pancha witnesses. The said panchanama is at running page 105 of the compilation. It shows that when the applicant, who was arrested immediately, his clothes were seized in presence of panchas. The panchanama would show that at the time of seizure of clothes there were no blood stains on the clothes of the present applicant.

It is not the prosecution, as it could be seen from the charge-sheet, that any weapon is seized at the behest of present applicant. In addition to the aforesaid, it is reported to this Court that past record of the applicant is absolutely clean.

This Court has already released one Nilesh Mathale in Criminal Application (BA) No.923/2019 on

22.10.2019. After perusal of the case of the applicant, it is clear that case of the present applicant is at par with the said accused Nilesh Mathale. Therefore, applicant is also entitled to be released on bail on the principle of parity.

In that view of the matter, I pass following order:

ORDER

- (i) The application is allowed.
- (ii) Applicant-Sachin s/o Prakash Mathale, be released on bail in connection with Crime No.166/2019 registered with Police Station, Kalamna, Nagpur for an offence punishable under Sections 302, 143, 147, 148 and 149 of the Indian Penal Code (IPC), Sections 4 and 25 of the Arms Act and Section 135 of the Maharashtra Police Act, on he executing P.R.Bond in the sum of ₹10,000/- with one solvent surety in the like amount.
- (iii) The applicant is directed to attend Police Station, Kalamna, Nagpur once in a month i.e. on second Saturday of every month and shall be with the investigating officer from 11.00 a.m. to 05.00 p.m. until culmination of the trial.
- (iv) The applicant is directed to attend all Court dates scrupulously.

The application is disposed of.

JUDGE