

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL APPLICATION (APPA) NO. 90/2020
IN
CRIMINAL APPEAL NO. 381/2019.

Rohit S/o Vijay Onkar and Ors.,
..VS..

The State of Maharashtra, Through P.S.O., Police Station Yavatmal (City), Yavatmal.

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

Court's or Judge's orders

Shri R. M. Daga, Counsel for the appellants.
Shri S. A. Ashirgade, APP for the respondent.

CORAM : SUNIL B. SHUKRE AND
MADHAV J. JAMDAR, JJ.

DATED : 07th February, 2020

Heard Shri R. M. Daga, learned counsel for
the appellants and Shri S. A. Ashirgade, learned
Additional PP for the respondent-State.

Though, this application has been opposed by
the learned APP, we find hardly any ground on the basis
of which the case of this applicant could be distinguished
from the case of original accused No.7 – Roshan, original
accused No.8 - Anup and original accused No.9 – Sachin,
who have been released on bail by suspending their
sentences by this Court by the order passed on
31.07.2019. Just so is the case with accused Roshan,
Anup and Sachin, that is to say, their names are not
specifically mentioned in the F.I.R., the same is
true about the present application too. The F.I.R., apart
from mentioning specific names of some of the

applicants, it states that there were few more assailants involved in the attack that was made in the night of deceased Anil on 31.10.2017 in front of Pan shop of P.W.3 – Vijay Shende. But, no investigation has been made for ascertaining the identity of the other assailants. Name of this applicant has been taken as one of the assailants by P.W.2 Premraj and P.W.3 Vijay and this was also the case in regard to accused Roshan, Anup and Sachin. This Court has in its order dated 31.7.2019 discussed in detail the evidence of eye witnesses. Suffice it to say, the reasons adopted therein would apply to the present applicant also.

In view of above, we are inclined to allow this application on the basis of parity and it is allowed accordingly. Substantive sentence of imprisonment awarded to the applicant – Vaibhav S/o Krushnarao Naik is hereby suspended on the applicant depositing in the trial Court the fine amounts and on his depositing the same, the applicant shall be released on bail on furnishing PR Bond in the sum of Rs.50,000/- together with one solvent surety in the like sum on condition that he would appear before this Court as and when called and at the time of final hearing of the appeal. This order shall be valid till final order of the appeal.

Disposed of.

JUDGE

JUDGE