

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

CRIMINAL APPLICATION (BA) NO.227 OF 2020

(Rahematkha s/o. Amadkha .vs. State)

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

Court's or Judge's

CORAM : M. G. GIRATKAR, J.

DATE : 27.7.2020.

1. Heard Mr.R.M.Daga, learned Counsel for the applicant and Mr. P.S.Tembhare, learned Additional Public Prosecutor for non-applicant/State. The hearing was conducted through Video Conferencing and the learned Counsel for the respective parties agreed that the audio and visual quality was proper.

2. Mr.R.M.Daga, learned Counsel for the applicant has pointed out report and statement of Shubham Nandlal Nandwanshi and submitted that there is no whisper in the report and in his statement about any act on the part of applicant in commission of crime. Learned Counsel has further pointed out statements of other witnesses and submitted that their statements are after thought statements. Those statements are recorded 15 days after the date of incident and therefore, it is clear that the applicant is falsely involved in the present crime. Learned Counsel for the applicant, therefore, prayed to release the

applicant on bail.

3. Mr.P.S.Tembhare, learned Additional Public Prosecutor for non-applicant/State has submitted that, as per statements of witnesses Sachin Shinde and others, the applicant was present on the spot of incident. He has instigated other accused persons to kill the deceased. Therefore, he is liable for the act of other accused persons who have committed murder of deceased. Hence, the applicant is not entitled for bail.

4. Perused the report lodged on 30th September, 2019 by Shubham Nandwanshi. As per his report, Shajid Hela, Javed Wahid, Shahrukh, Parvej (Paru), Anna, Harshid Kha Rahemat Kha had come on the spot for gambling. He saw all those persons near deceased Shyam. He saw knife in the hand of Sharukh and sickle in the hands of Shajid and Javed. They were beating deceased Shyam with those weapons. He ran away from the spot. In his statement, he has stated that the applicant was present on the spot of incident, but he has not stated anything about any instigation given by the present applicant. Statements of other witnesses were recorded after 15 days. Statements of those witnesses show that the present applicant was instigating other accused. Even if the statement of

Shubham dated 30th September, 2019 is taken into consideration, it does not show any active part on the part of applicant in commission of crime. He has not stated anything about instigation given by the present applicant. Hence, the applicant is entitled for grant of bail. The application is allowed.

The applicant be released on bail on his furnishing P.R. bond of **Rs.50,000/-** with one solvent surety in the like amount.

He shall not tamper with evidence of prosecution witnesses.

He shall attend the trial Court on each and every date.

He shall not leave the jurisdiction of trial Court without prior permission.

This order be communicated to the Counsel appearing for the parties, either on the email address or on WhatsApp or by such other mode, as is permissible in law.

JUDGE

ssjaiswal

Suraj
Jaiswal

Digitally signed
by Suraj Jaiswal
Date:
2020.07.27
16:19:46 +0530