

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

CRIMINAL APPLICATION (BA) NO. 383 OF 2020

(Murlidhar @ Mehul s/o Vishnu @ Pappu Advani, Nagpur Vs. State of Maharashtra,
thr.PSO, Nagbhid, Chandrapur)

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, Advocate for the applicant.
Shri N.H. Joshi, A.P.P. for the non-applicant.

CORAM : PUSHPA V. GANEDIWALA, J.
AUGUST 20, 2020.

Heard Shri Daga, learned counsel for the applicant and Shri Joshi, learned A.P.P. for the non-applicant/State through Video Conferencing.

2. The applicant is said to be arrested in connection with Crime No. 439/2018 dated 06/11/2018 registered at Police Station, Nagbhid, District Chandrapur for the offence punishable under Sections 302, 307, 353, 332, 333, 363, 403, 417, 201 and 120B of the Indian Penal Code, 1860 (for short "IPC"), Sections 65A, 82 and 83 of the Maharashtra Prohibition Act, 1949 (for short "Act of 1949") and Sections 3(1)(i)(ii), 3(2) and 3(4) of the Maharashtra Control of Organized Act, 1999 (for short "MCOC").

3. The prosecution case in brief is that PSI Achalkumar Shantaram, Malkapur, attached with the Police Station, Nagbhid, lodged a report against accused persons stating therein that during

Nakabandi at one bridge of Gosikhurd Canal Road Dhorpa village, one white colour Scorpio car bearing registration No. MH-34-AM-2810, carrying illegal liquor was tried to be intercepted, but the driver of that car, without stopping it, deliberately driven the said vehicle in a rash and negligent manner and caused injury to PSI Chhatrapati Kishan Chide, who later on succumbed to the injuries.

4. It is stated that the other co-accused involved in the present crime are having criminal antecedents and as such, provisions of MCOC is made applicable, as there is a crime syndicate run by the accused namely Shehjad Shaikh, he being a leader. That the other co-accused are habitual offenders and they used to supply liquor at the ban district of Chandrapur and Gadchiroli.

5. The allegation against the present applicant is that he was in continuous touch through his mobile phone with the gang leader Shahjad Shaikh and the co-accused persons, who were sitting in the aforesaid Scorpio car and on the oral instructions given by the present applicant, the illegal liquor loaded in the said vehicle was unloaded at the Dhaba of the father of the present applicant, situated at Pachgaon.

6. Learned counsel for the applicant submitted that there is absolutely no role of the present applicant in the offence punishable under

Section 302 of IPC and at the most, Section 201 may be applied against him. He further submitted that the co-accused (father of the present applicant) has already been released on bail by this Court vide order dated 24/02/2020 passed in Criminal Application (BA) No. 979/2019.

7. Learned A.P.P. strongly opposing the bail application submitted that the Investigating Agency collected CCTV footage of the camera, which reflects that the aforesaid Scorpio car was loading stock of foreign liquor from the shop of the present applicant, situated at Mahal, Nagpur. He further submitted that the said vehicle came at Pachgaon Dhaba of the father of the present applicant carrying illegal liquor and thereafter proceeded further for its destination for delivery. But as there was Nakabandi, the said Scorpio had again come at Pachgaon Dhaba for unloading the stock of foreign liquor, on the instructions of the present applicant.

8. I have considered the submissions put forth on behalf of both the sides.

9. At the outset, undisputedly, nine co-accused in the instant case have already been released on bail either by this Court or by the learned Sessions Court. In the entire chargesheet, there are no direct allegations with regard to the offence of murder against the present applicant. The role attributed to the present applicant is that the driver

of one Scorpio car carrying foreign liquor, which was loaded from the shop of the present applicant, situated at Nagpur, dashed the police vehicle in order to flee away, thereby caused injuries, which ultimately proved fatal and caused death of one Police Officer and in order to disappear the evidence, the said foreign liquor was unloaded in the Dhaba of the father of the applicant, situated at Pachgaon.

10. With regard to applicability of offence punishable under MCOC, at this stage, the prosecution could not point out as to how the present applicant, either individually or jointly, as a member of crime syndicate, committed any offence for pecuniary gain. The criminal antecedents against the present applicant are mainly for the offence punishable under the Act of 1949.

11. Furthermore, the father of the present applicant, who has been attributed more or less similar role, has already been released on bail by this Court. Therefore, this Court is of the opinion that by imposing suitable conditions, the present applicant also can be released on bail. Hence, the following order :-

ORDER

- i) The Criminal Application is allowed.
- ii) The applicant be released on bail on his furnishing PR bond in the sum of Rs.50,000/- with

one solvent surety in the like amount.

iii) The applicant shall not pressurize or issue threats to the witnesses.

iv) The applicant shall not tamper with the prosecution evidence.

v) The applicant to supply his residential address and mobile number to the concerned police station and shall not change the same, pending trial.

vi) The applicant shall not leave the local jurisdiction without prior intimation to the concerned police station.

vii) The applicant to attend the concerned police station on every first Thursday of each month between 12.00 noon to 2.00 pm.

12. The Criminal Application is disposed of accordingly.

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

CRIMINAL APPLICATION (APPP) NO. 505/2020.

In view of disposal of the bail application, this application is rendered infructuous and it is disposed of accordingly.

JUDGE