

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

CRIMINAL BAIL APPLICATION (BA) NO. 528 OF 2020

Vicky @ Vikesh s/o Mukhoru Jambhule, Bhandara & Anr.

Vs.

State of Maharashtra

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

Shri C.R. Thakur, Advocate for the applicants.
Shri I.J. Damle, A.P.P. for the respondent/State.

CORAM : PUSHPA V. GANEDIWALA, J.

DATED : NOVEMBER 23, 2020.

Heard Shri Thakur, learned counsel for the
applicants and Shri Damle, learned A.P.P. for the respondent/
State, through Video Conferencing.

2. The applicants are said to be arrested in connection with Crime No. 439/2018 dated November 06, 2018, registered at Police Station, Nagbhid, District Chandrapur for the offences punishable under Sections 302, 307, 353, 332, 333, 363, 417, 406, 120B and 201 of the Indian Penal Code, 1860, Sections 65A, 82 and 83 of the Maharashtra Prohibition Act, 1949 and Sections 3(1)(i)(ii), 3(2) and 3(4) of the Maharashtra Control of Organized Act, 1999.

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. During investigation, it is revealed that the aforesaid Scorpio car thereafter came at one Advani Dhaba, situated at Pachgaon, where the liquor was unloaded and the other accused also gathered there and thereafter fled away to the neighbouring State Chhattisgarh.

5. It is submitted that the present applicants came to be detained by the Police Station, Jashpur (C.G.) on November 10, 2018 and thereafter, the Investigation Officer arrested them on November 11, 2018. The mobile handsets of the applicants were taken into custody and the same were referred for forensic examination.

6. It is also revealed that the present applicants were present along with the co-accused and participated in conversation with the other accused persons. It is further alleged that the applicant No.2 was driving Swift Dzire car bearing registration No. MH 31 EQ 0408 accompanied by the other co-accused and were violating the main vehicle, which was containing liquor and the applicant No.2 and the other accused were providing safe passage to the vehicle, which was containing liquor to proceed further on the road.

7. During recording of confessional statements it is revealed that the present applicants were hired in connection with the present offences by the gang leader Shehjad Shaikh. It is revealed that there is a crime syndicate run by him and the other co-accused are habitual offenders and use to supply liquor to the dry districts i.e. Chandrapur and Gadchiroli.

8. It is further alleged that the present applicants and the other accused tampered the registered number plate of the vehicle, which has given dash to PSI Chide.

9. I have perused the application, reply affidavit, orders of this Court, wherein co-accused have been granted bail, and the chargesheet, with the assistance of the learned counsel appearing for both the parties.

10. At the outset, Shri Thakur, learned counsel for the applicants urge bail to the present applicants on the ground of parity. Undisputedly, 9 to 10 accused out of 18 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 applicants. The role attributed to the present applicants is only with regard to their sitting in the pilot car along with co-accused. It is unclear from the prosecution case as to whether the pilot car was ahead of the offending Scorpio car or was following the Scorpio car. It is further not clear as to

what happened to the pilot car when the alleged incident had happened.

11. The crime charts against both the applicants are mainly with regard to the offences under the Bombay Prohibition Act. The prosecution could not clearly point out the continuous illegal activities of the crime syndicate of which the present applicants are the members.

12. With regard to the confessional statements, the said statements have to be tested in the trial. The applicants are in jail since more than two years. As the co-accused namely Murlidhar @ Mehul Advani and Nikesh @ Nikku Meshram, who are similarly situated with the present applicants, have already been released on bail, this Court is of the opinion that the present applicants are also entitled for bail on the ground of parity. Hence, the following order :-

ORDER.

- i. The Criminal Application is allowed.
- ii. The applicants be released on bail on their furnishing PR bond in the sum of Rs.50,000/- (rupees fifty thousand) each with one solvent surety each in the like amount.
- iii. The applicants shall not pressurize or issue threats to the witnesses.
- iv. The applicants shall not tamper with the prosecution evidence.

v. The applicants to supply their residential address and mobile numbers to the concerned police station and shall not change the same, pending trial.

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

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

13. The Criminal Application is disposed of accordingly.

14. The aforesaid observations is only for granting bail to the applicants and it shall not come in the way of the trial Court during trial.

JUDGE

Sumit