

1**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**
NAGPUR BENCH, NAGPUR.**LD-VC-CRIMINAL APPLICATION [BA] NO. 515/2020**

Rahul Rajesh Dhendunde

-VERSUS-

State of Maharashtra, through P.S.O. Police Station Khamgaon (City), District Buldhana

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders

Shri S.D. Chande, Advocate for the Applicant.
Shri J.Y. Ghurde, A.P.P. for the Non-applicant.**CORAM : VINAY JOSHI, J.****DATE : AUGUST 24, 2020.**

Hearing was conducted through Video Conferencing and the learned Counsel agreed that the audio and visual quality was proper.

2. The applicant is arrested in connection with Crime No. 232/2019 registered with Police Station Khamgaon City, District Buldhana for an offence punishable under Section 302, 120-B read with 34 of the Indian Penal Code. The bail is claimed on the merits as well as on the ground of parity pointing that co-accused Sandip is already released by this Court vide order dated 29.11.2019. The State resisted bail vide reply/affidavit. It is contended that the applicant was involved in an offence of serious nature where he has assaulted deceased by means of sharp edged weapon namely knife.

3. The State denied applicability of rule of parity by submitting that the case of applicant is having distinct feature than

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Sandip since applicant was seen by one witness along with knife. Moreover, it is submitted that the applicant has earlier withdrawn his bail application filed in this Court on 07.01.2020.

4. Aunt of deceased Vicky lodged report on 02.05.2019 with concerned Police. She stated that at relevant time, deceased Vicky Sharma left the house along with three persons namely Arjun @ Sonu Mohan Ghatge, Rahul Rajesh Dhendune (applicant) and one Sandip @ Mogli Dilip Sarsar (released on bail). Since, Vicky Sharma did not return, on search, it was found that he was lying in pool of blood having bleeding injuries. Thus, the informant has stated about last seen evidence.

5. This Court has enlarged co-accused Sandip on bail vide order dated 29.11.2019. He was also allegedly last seen in the company of deceased. The only distinguishing factor is that one of the witness namely Mahendra has stated that soon before the occurrence, he has seen the deceased along with knife. Moreover, this witness has identified the knife lying at the place of occurrence to be the same seen in the possession of the applicant. As per the prosecution case itself, knife was lying on the spot, meaning thereby it was not seized from the possession of the applicant. It is a matter of appreciation as to why consistently on 30.04.2019 and then on 02.05.2019, the applicant has shown the knife to somebody else who is noway concerned with the incident. Evidence

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against the applicant is of last seen theory and statement of witness seeing knife with applicant prior to the occurrence. Already investigation is complete and charge-sheet is filed. Though, earlier bail application was withdrawn in the month of January 7. I am in disadvantageous position to know the reason as to why the Court has not shown inclination to grant bail. Particularly, the proceedings before the Trial Court are held up due to pandemic situation. It is unpredictable as to when the trial would commence in present scenario. Having regard to the nature of material, it is not appropriate to keep applicant behind bars for indefinite period. The applicant is entitled for bail. Hence I pass the following order:

6. The applicant Rahul Rajesh Dhedunde is released on bail on his furnishing P.R. Bond of Rs.25000/- with one or two sureties in the like amount.

7. Applicant/accused shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case, as also shall not tamper with the evidence.

8. This order be communicated to the counsel appearing for the parties, either on the e-mail address or on WhatsApp or by such other mode, as is permissible in law.

JUDGE

R.S. Sahare