

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

LD-VC-BA NO.803 OF 2020

(Mohd. Sajid @ Hela Mohd. Wahid Vs. State of Maharashtra)

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

Court's or Judge's orders.

Shri M.N. Ali, Advocate for Applicant.
Shri P.S. Tembhare, APP for Non-Applicant/State.

CORAM: ROHIT B. DEO, J.

DATE: 3rd SEPTEMBER, 2020.

Hearing was conducted through video conferencing and the learned counsel agreed that the audio and visual quality was proper.

2] Heard.

3] The applicant, who is in custody since 01.10.2019 in connection with Crime 386/2019 registered with Police Station Paratwada, District Amravati for offence punishable under sections 302, 143, 147, 148, 149, 201 of the Indian Penal Code is seeking release on bail.

4] The incident occurred on 30.09.2019 and the informant is one Shubham Nandlal Nandwanshi. Perusal of the first information report and the statements of eye witnesses, holistically read, would *prima facie* suggest that the applicant is not attributed the role of assault with sharp

weapon. The case of the prosecution appears to be that the applicant exhorted the assailants Sohail Khan and Mohd. Adil to kill Shyama Pahelwan. It does not appear to be the case of the prosecution that there was any pre-concerted plan or conspiracy to murder Shyama Pahelwan and the assault appears to be the fall out of an altercation when the deceased and the accused and others were gambling.

5] It would not be appropriate to analyze the evidence on record very minutely. Suffice it to note that two eye witnesses namely Sachin Shinde and Rohit Radhey have not attributed any role to the applicant and indeed do not speak of the applicant's presence. The version of the other eye witnesses namely Shubham, Rajendra Thakre and Ghanshyam is inconsistent on the aspect of instigation. While few witnesses do speak of the applicant possessing a sickle/koyata, there is no material on record to suggest that the applicant assaulted Shyama Pahelwan with the koyata.

6] I do not see propriety in continuing the custody of the applicant.

7] The applicant has made out a case for grant of bail.

8] The applicant shall be released from custody on furnishing personal bond of Rs.25,000/- with a surety of like amount. The surety may be furnished within four weeks from the date of release.

9] The applicant shall not make any attempt to influence the witnesses.

10] The applicant shall scrupulously attend every date of hearing and breach of this condition may entail cancellation of bail.

11] The applicant shall deposit his pass-port, if any, with the jurisdictional police station and shall not leave the country without the permission of the jurisdictional court.

12] The applicant shall furnish his current address and cell phone number to the Investigating Officer and shall not change the same without intimating the change to the Investigating Officer.

13] The application is allowed.

14] The 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

NSN

Nitin
Nikhare

Digitally signed
by Nitin Nikhare
Date: 2020.09.04
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