

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

Criminal Application (BA) of 2020 (LD-VC No. 486 of 2020)

[Nayan @ Sharad s/o Sanjay Mandle Vs. State of Maharashtra]

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Shri K.R. Trivedi, Advocate for the applicant
Mrs. H.N.Prabhu, APP for the non-applicant/State

CORAM : M. G. GIRATKAR, J.

DATE : 10/08/2020

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

2. Heard learned Counsel Shri Trivedi for the applicant. He has submitted that the name of the applicant is not mentioned in the FIR. Statement of Kanta Mahore shows that she is not eye-witness of the incident. She has stated in her statement that three persons, namely, Kedar Ghanshyam Charpate, Nitin Kholapure and Nayan Mandale might have been killed on duty Police Constable.

3. Learned Counsel Shri Trivedi for the applicant has pointed out the Marg Summary. As per his submission, the cause of death appears to be head injury caused in an

accident and prayed to grant the bail.

4. Heard Mrs. Prabhu, learned APP for the non-applicant/State. She has submitted that hotel owner has stated in his statement that he had seen the accused on motor vehicle having iron rod. Bail application filed by Kedar Charpate is rejected by this Court.

5. From the perusal of order dated 25.02.2020 in Bail Application no. 119 of 2020, it appears that bail application of Kedar Charpate was withdrawn because of statement made by learned APP Shri V.R. Thakare that trial is fixed for evidence.

6. Shri Trivedi, learned Counsel for the applicant submits that till today charge is not framed. Bail Application No. 119 of 2020 is not decided on merit.

7. From the perusal of the FIR and Charge-sheet, it appears that there is no eye-witness of the incident. FIR is lodged only on the suspicion as per the information given by Station Duty Naik Police Constable Kanata Mahore. From the perusal of the statement of Kanata Mahore, it appears that she has not stated definitely about the act of the applicant. She has stated that the applicant and other

accused might have committed the murder of the deceased.

8. Mrs. Prabhu, learned APP for the non-applicant/State pointed out statement of hotel owner Datta Shahare. From the perusal of the statement of Datta Shahare, it appears that he had seen the accused having iron rod in their hand. Except this, there is nothing on record to connect the accused in crime.

9. Learned APP has pointed out statement of Vikky Chauhan. His statement also does not show that he is eye-witness of the incident. He has only stated that the present applicant alongwith other accused came to the petrol pump to fill the petrol, that time they were having iron rod. From the perusal of the death summary, it is clear that cause of death was head injury caused in an accident. From the perusal of the entire charge-sheet, there is no direct evidence against the applicant, hence, the following order:

(i) The application is allowed.

(ii) The applicant - Nayan @ Sharad s/o Sanjay Mandle be released on his executing a P.R. Bond of

Rs.25,000/- (Rupees twenty five thousand only)
with solvent surety of like amount.

(iii) He shall not tamper the evidence of
prosecution witnesses.

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

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

(vi) Breach of any conditions amounts to
cancellation of bail.

10. Accordingly, the application is disposed of.

11. 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