

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

CRIMINAL APPLICATION (BA) NO.337 OF 2021

Yogesh Vikas Bhimte

..vs..

State of Maharashtra, thr. P.S.O.

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 M.J. Khan, A.P.P. for Non-applicant/State

CORAM : VINAY JOSHI, J.

DATED : 19/06/2021

Hearing was conducted through Video Conferencing.

2. By this application, the applicant/accused is seeking bail in Crime No.451 of 2020 registered at Kuhi Police Station, District Nagpur for the offence punishable under Sections 302, 364 read with 34 of Indian Penal Code and Section 4, 25 of the Arms Act. The applicant/accused urged for bail by stating that there is no material against him to show the complicity in the crime. It is argued that the incident as emerges from police papers, is in two parts. Initially, the applicant and the co-accused had manhandled both deceased and then some of the co-accused took away both the victims at distant place by swift car, where they were allegedly murdered. The emphasis is on the point that the role ascribed to the applicant is to the extent of beating the deceased by means of fist blows and kicks. The State resisted bail

by pointing towards seriousness of the offence and highlighting that two persons were done to death in the occurrence.

3. It is the prosecution case that on 15.11.2020, around 8.30 p.m., the applicant and co-accused have beaten both the victims by means of fist blows and kicks. Thereafter, the co-accused has summoned their four-wheeler on the spot, in which both the deceased were made to sit and named assailants along with one unknown person, took away both the deceased. It is a prosecution case that, since there was no space in the car, the applicant and some other remained at the place from where the co-accused took away both the victims. Thereafter, the assailants took the victims at the distant place and done to death by means of inflicting a knife blows.

4. There are eye-witnesses to the occurrence, who have stated the role of the applicant to the extent of first part i.e. bearing the deceased by means of fist blows and kicks. Though one unknown person also went in the car, however, the witnesses have clarified that the applicant had not boarded the car since there was no space. It is not the prosecution case that the applicant also accompanied in the car while taking away both the victims and committing their murder.

5. Learned A.P.P. has pointed out that while the

four assailants took away the victims by car, at that time the applicant and others assisted the co-accused to made victims to sit in the car. Moreover, the applicant and some others were shouting for not to spare the deceased. It is a matter of evidence to be established to the satisfaction of the Court whether the accused had conspired with others or had knowledge that the victims are carried for committing their murder. However, as per the prosecution case, the role of the applicant is restricted to the beating of deceased by means of fist blows and kicks. Pertinent to note that, the second place of the occurrence is far away as the co-accused carried both the victims at distant place and thereafter the later incident took place. Admittedly, the applicant had not partaked in second incident of actual murder.

6. Learned A.P.P. has pointed that two prior offences, were registered against the applicant. However, it is brought to the notice that, in one of the offence the applicant is acquitted by the competent Court. In context with the role attributed to the accused antecedents as alleged would not make applicant dis-entitle for bail.

7. Having regard to the specific role assigned to the applicant, at this stage, i.e. after filing of the charge-sheet, further detention of the applicant is unwarranted. Though there are several offences

against the main accused who has allegedly assaulted the deceased, however, they cannot be used adversely against the applicant. In view of above, the applicant has made out a case for grant of bail, hence, the following order is passed :

- (a) The Criminal Application is allowed and disposed of.
- (b) The Applicant/accused Yogesh Vikas Bhimte is released on bail in connection with the Crime No.451 of 2020 registered at Kuhi Police Station, District Nagpur for the offence punishable under Sections 302, 364 read with 34 of Indian Penal Code and Section 4, 25 of of the Arms Act, on his furnishing P.R. bond in the sum of Rs.25,000/- with one or two sureties in the like amount.
- (c) The 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.
- (d) The Applicant/accused shall attend concerned Police Station on first Monday of each month in between 10.00 am to 12.00 noon, till the conclusion of trial.

JUDGE