

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

CRIMINAL APPLICATION (BA) NO.442 OF 2021

(Tirupati s/o Malayya Pattiwar Vs. State of Maharashtra thr. PSO PS Ramnagar, Dist.
Chandrapur)

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

Court's or Judge's orders.

Mr. Aniruddha C. Jaltare, Advocate for Applicant.
Ms. T.H. Udeshi, APP for Non-Applicant/State.

CORAM: ROHIT B. DEO, J.

DATE: 23rd JULY, 2021.

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

2. The applicant is in custody since 21.10.2019 in connection with Crime 1327/2019 registered with Police Station Ramnagar, Chandrapur for offences punishable under Sections 302, 364, 364-A, 384, 386, 143, 147, 148, 149, 504, 506 and 120-B of the Indian Penal Code and Section 3/25 of the Arms Act.

3. Bail is sought, on facts and on the principle of parity. The submission is that I have released co-accused Gurudayalsingh Takhatsingh Tak on bail vide order dated 26.10.2020.

4. The learned APP Ms. Udeshi points out that while releasing co-accused Gurudayalsingh on bail, the test identification parade which was conducted fell under serious cloud, since out of the twelve persons who were lined up, Gurudayalsingh was the only Sardar (turban wearing Sikh). Ms. Udeshi submits that in the present case, the applicant is identified by Rubina as well as Bunt.

5. While Ms. Udeshi is right in the submission noted *supra*, the role which is attributed to Gurudayalsingh and the present applicant appears to be similar. While granting bail to Gurudayalsingh, it is observed that even if the identification parade is given credence, the role played by Gurudayalsingh is quite blurred. It is further observed that whether Gurudayalsingh was one of the abductors or was only present and participated in the assault, is blurred. Similar is the case, with the applicant Tirupati Patiwar. It is not disputed that the applicant has no criminal antecedents. He is not likely to be a flight risk. It is not even the case of the prosecution that he would be in a position to influence the witnesses. In such a situation, considering the role attributed to the applicant Tirupati Patiwar, I see no purpose in continuing with the incarceration.

6. The application is allowed.

7. The applicant be released on bail in connection

with Crime 1327/2019, for offences punishable under sections 302, 364, 364-A, 384, 386, 143, 147, 148, 149, 504, 506 and 120-B of the Indian Penal Code and Section 3/25 of the Arms Act, on executing PR bond of Rs.15,000/- (Rupees Fifteen Thousand) with one solvent surety of the like amount.

8. The applicant shall not, directly or indirectly, make any attempt to influence the witnesses or otherwise tamper with the evidence.

9. The applicant shall not leave the country without the permission of the trial Court.

10. The application is disposed of accordingly.

JUDGE