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

CRIMINAL APPLICATION (BA) NO.450 OF 2021

Pappu @ Amar s/o Mahadeo Dhoke

Vs.

The State of Maharashtra through P.S.O. P.S. Katol, Dist. Nagpur

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

Court's or Judge's orders

Mr. R. M. Daga, Advocate for applicant.
Smt. K. R. Deshpande, APP for non-applicant.

CORAM : AVINASH G. GHAROTE, J.

DATE : 04/06/2021

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

2 Heard Mr. Daga, learned Counsel for the applicant. Smt. Deshpande, learned APP appears for the non-applicant no.1. Mr. Nayyar, learned Counsel is assisting the prosecution.

3 An application under Section 439 of the Cr. P.C. has been filed for seeking bail for the offence punishable under Sections 302, 143, 147, 148, 149, 188, 201, 269 and 270 of the Indian Penal Code. It is contended by the Mr. Daga, learned Counsel for the applicant that Madhukar Dattaji Dhoke who is the co-accused in the matter and

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against whom similar allegations are made has been set at large by this Court by an order dated 08.02.2021. It is the case of the prosecution that report was lodged on 30.05.2020 at about 12.30 am, contending that the present applicant alongwith Kunal Dhoke, Madhukar Dhoke, Gaurav Dhoke had assaulted the deceased, by way of iron rod and wooden stick and had fled away from the spot, which incident is said to have been witnessed by the informant – Sabdar, who is the brother of the deceased. Mr. Daga, learned Counsel for the applicant invites my attention to the statement of Sabdar in which specific blow to the head has been attributed to Nehal Dhoke. The action attributed to Madhukar as well as the present applicant is of assault by a stick.

4 Mr. Daga, learned Counsel for the applicant submits that the allegations as made against the present applicant are identical in nature as made against Madhukar and, therefore, he is entitled for bail on the ground of parity. He submits that even otherwise, the investigation is over and charge-sheet has been filed in the present matter on 24.08.2020. Considering the nature of the statements and action attributable of the applicant, the further incarceration of the applicant in prison is no longer required. He further submits that the trial, considering the present Covid – 19 situation, is likely to take a considerable period of time and therefore, the applicant be released on bail, who has been

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arrested on 30.05.2020.

5. Learned APP Smt Kalyani Deshpande opposes the application, and contends that the situation of the present applicant is different than that of Madhukar, since there has been recovery of the wooden stick from the applicant. She therefore, submits that the ground of parity is not available. Even otherwise, she submits that the present applicant has criminal antecedents and ought not to be enlarged on bail. The details of the earlier offences against the applicant have been listed in Para 10 of the reply dated 19.05.2021.

6. Mr. Daga, learned Counsel for the applicant counters the submission and contends that recovery was there also from Gaurav of the blood stained clothes and weapon, even then, he has been enlarged on bail by an order 08.02.2021. Insofar as the contention regarding criminal antecedents, Mr. Daga, learned Counsel hastens to point out, that the incidents which have stated are of the year 2010, 2013, 2015 in respect of offences under Sections 452, 147, 336, 323, 504, 506, 353, 323, 504, 506, 332, 324, 294, 506, 34 and 353 of the Indian Penal Code respectively and therefore, cannot be termed of a serious nature so as to mar the grant of bail to the applicant.

7. Considering the above submission and upon

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perusal of the record, prima facie, it appears that the role of the present applicant is of assault by way of a wooden stick. The statement of Sabdar does not indicate that the assault by the applicant was on any vital part of the body. The postmortem report indicates the cause of death being due to head injury, which assault is attributable to the accused no.1. In view of the fact that the charge-sheet has already been filed and the co-accused is also released on bail, I am of the opinion that no purpose would be served in continuing the custody of the applicant. I, therefore, pass the following order.

ORDER

The applicant Pappu @ Amar s/o Mahadeo Dhoke, be released on bail for the offence punishable under Sections 302, 143, 147, 148, 149, 188, 201, 269 and 270 of the Indian Penal Code, registered at Police Station, Kotal, Dist. Nagpur, vide Crime No.349 of 2020, on his executing a PR bond in the sum of Rs.50,000/- (Rupees Fifty thousand) with two solvent sureties in the like amount, on the following conditions:-

- (i) He shall attend the concerned Police Station, on every 1st and 3rd Saturday of each month, between 11.00 and 2.00 p.m., till framing of the charge by the trial Court.
- (ii) He shall provide his residential address and cellphone number to the concerned Investigating

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Officer and shall not change the same without prior intimation to the Investigating Officer.

(iii) He shall not tamper with or threaten the prosecution witnesses in any manner.

(iv) He shall keep himself away from the limits of area where the complainant and other witnesses are residing.

(v) Two consecutive absence without reasonable cause will entail the prosecution to move for cancellation of bail.

(vi) Any observations made in this order are only for granting bail to the applicant and it shall not come in the way of the trial Court, during trial.

The application is accordingly disposed of.

Other Criminal Applications, if any, stands disposed of.

JUDGE