

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

CRIMINAL APPLICATION (BA) NO.737 OF 2021

(Sidhanath s/o Rammilan Yadav Vs. State of Maharashtra thr. PSO PS Khaparkheda,
Tah. Saoner, Dist. Nagpur)

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

Court's or Judge's orders.

Ms. N.P. Hiwase, Advocate for Applicant.
Ms. T.H. Udeshi, APP for Non-Applicant/State.

CORAM: ROHIT B. DEO, J.

DATE: 2nd AUGUST, 2021.

The applicant is in custody since 19.08.2020 in connection with Crime 517/2020 registered with Khaparkheda Police Station, Nagpur for offences punishable under sections 302, 307 read with section 34 of the Indian Penal Code.

2. The incident occurred on 19.08.2020. Even according to the prosecution witnesses, the incident is in two parts.

3. There was an altercation between deceased Lali, who was addicted to consumption of liquor, and the accused.

4. The deceased was under the influence of liquor, is the statement of his brother Zuber.

5. According to Zuber, approximately thirty minutes after the altercation, deceased Lali went to the house of the accused, probably to extract revenge. Zuber followed his brother to the house of the accused and saw the accused assaulting Lali. The role attributed to the applicant is that he was holding an iron rod, whereas the other accused was holding stick. Zuber went to the rescue of his brother, and suffered injuries.

6. The investigation is complete and the charge-sheet is filed. The applicant has no criminal antecedents.

7. Perusal of the material in the charge-sheet, including the statement of the only eye witness who is Zuber, would suggest, that there is a strong possibility that the murder was not premeditated. Even according to Zuber, his brother was addicted to liquor and the first altercation occurred when his brother was under the influence of liquor. Zuber's brother Lali then went to the house of the accused where the second altercation occurred. Although simple, there is an injury suffered on the chest, by the applicant.

8. Considering that the applicant is not a flight risk and would be available for trial, I do not see any purpose in continuing with the incarceration.

9. The application is allowed.
10. The applicant be released on bail in connection with Crime 517/2020 for offences punishable under sections 302, 307 read with section 34 of the IPC, on executing personal bond of Rs. 15,000/- with one solvent surety of the like amount.
11. The applicant shall not tamper with the evidence or make any attempt to influence the witnesses, directly or indirectly.
12. The applicant shall not leave the country without the permission of the trial court.
13. While at this stage, I am not inclined to restrict the movements of the applicant, it shall be open to the prosecution to make an appropriate request, if the need to do so arises.
14. The application is disposed of accordingly.

JUDGE