

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

Criminal Application (BA) No. 854 of 2021

(Shabhan Vakil Ahmad Ansari ..vs.. State of Maharashtra, through P.S. Lakadganj, Nagpur)

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

Court's or Judge's orders

Mr. G. S. Gour, Advocate for the applicant
Mr. M. K. Pathan, APP for the non-applicant/State

CORAM : ROHIT B. DEO, J.

DATED : 01-09-2021

This application was heard on 30-8-2021.

2. Since the statement of the material witness Tushar Deoghare who was accompanying the deceased and who himself suffered injuries was not legible, the hearing was adjourned.

3. Today, learned Additional Public Prosecutor Mr. Pathan has made available legible copy of the statement of Tushar Deoghare and the statement of eye witness Udaysingh.

4. The prosecution case is that on 15-2-2020 in the evening hours, Tushar Deoghare and Subhash Vishwakarma were proceeding from Lalganj towards

their home via Maskasath Bridge on the motorcycle. Subhash requested Tushar Deoghare to take a halt since he had nature's call to answer. Subhash went to discrete place under the bridge. After sometime, Subhash came running towards the motorcycle. He was chased by 7 to 8 youths who held him, assaulted him with fists, brought him down on the ground and launched a brutal assault with knife. Tushar Deoghare protested, only to be assaulted by the assailants. Tushar Deoghare suffered knife injury to the fingers of the left hand in an attempt to take evasive action. Not content, the assailants inflicted another blow on the buttocks when Tushar tried to flee away.

5. I have perused the material on record and there is an overwhelming *prima facie* case against the applicant, who is a history-sheeter. Injured Tushar Deoghare has identified the applicant as one of the assailants. The applicant is also identified by eye witness Udaysingh. A knife with blood stains is recovered at the behest of the applicant. Significantly, the clothes which are also recovered at the behest of the applicant correspond to

the description given in the initial report and the supplementary statement of injured Tushar.

6. In addition to the overwhelming *prima facie* case, as many as six offences, including those of robbery and dacoity are registered against the applicant in four police stations.

7. The learned counsel for the applicant is relying on a decision of a learned Single Judge in ***Sayed Mohammed Owais Vs. State of Maharashtra [2002 Cri.L.J. 303]*** to buttress the submission that the identification parade is not conducted in accordance with the Criminal Manual.

8. In my considered view, there is ample material on record, even *dehors* the identification parade, to *prima facie* connect the applicant with the heinous crime.

9. Insofar as the alleged contravention of the Criminal Manual, it would be premature while deciding entitlement to bail, to microscopically evaluate the submission touching the identification parade and it

would be appropriate if the decision is left to the trial Court which will have the benefit of evidence adduced.

10. The application is dismissed.

JUDGE

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