

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

Criminal Application (BA) No. 897 of 2021

[Ganesh @ Ganiya S/o. Natthu Borikar ..vs.. State of Maharashtra through P.S.O., Kalamna, Nagpur]

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

Court's or Judge's orders

Mr. N. S. Giripunje, Advocate for the applicant
Mrs. K. R. Deshpande, APP for the State/non-applicant

CORAM : ROHIT B. DEO, J.

DATED : 11-10-2021

The applicant is seeking bail in connection with Crime 29/2021 registered at Police Station, Kalamna, Nagpur for the offences punishable under Sections 143, 147, 148, 149, 302, 324, 323 and 504 of the Indian Penal Code read with Section 135 of the Maharashtra Police Act.

2. As many as 11 youth are arraigned as accused which include 3 juveniles in conflict.

3. The victim, who succumbed due to injuries suffered in the assault, was 16 years old.

4. The report is lodged by Vinod, who was accompanying the deceased and who himself suffered

injuries in the assault. Vinod refers to certain previous incidents and then states that at 8.00 p.m. on 8-1-2021 when he along with the deceased and other friends were sitting at the square near Chhota Sai Mandir, the accused arrived there, co-accused 'S.S.', juvenile in conflict caught hold Dharmendra Shirmor's collar and four others including the applicant started assaulting Dharmendra with fists and blows. Dharmendra rescued himself and fled. Co-accused Babba @ Sagar chased Dharmendra but in vain. Babba returned and assaulted Vinod on the left hand and then Vinod ran from the spot and when he looked back from a distance, Babba, Manish Patel, Tushar Yadav, Nitesh Yadav and their companions had held Vinay and juvenile in conflict 'S.S.' was assaulting him on the stomach with knife like weapon.

5. I am consciously refraining from minutely examining the material on record. I am inclined to grant bail for reasons which are briefly spelt out hereinafter.

6. The investigation is complete and the charge-sheet is filed. The applicant has no criminal antecedent and he is relatively young, aged 19 years.

7. Perusal of the statements of witnesses, do not, *prima facie* attribute to the applicant assault with any weapon other than fists and blows and that too, not on the deceased, but on Dharmendra. Since the prosecution has invoked Section 149 of Indian Penal Code, it would be ultimately for the trial Court to ascertain the culpability of the applicant on the touchstone of established principles.

8. Considering the role attributed to the applicant and his relatively young age and the fact that he is not a flight risk, a case for bail is made out.

9. The application is allowed subject to the following conditions.

(a) The applicant be released on bail on furnishing PR bond of ₹ 16,000/- (Rupees Sixteen Thousand) with solvent surety of like amount.

(b) The applicant shall not tamper with the evidence or make any attempt to influence the witnesses, directly or indirectly.

(c) The applicant shall not leave the country without the permission of the jurisdictional Court.

JUDGE

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