

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

CRIMINAL APPLICATION [ABA] NO. 702 OF 2021.

Shashikant Bhagwanrao Atote.

-Versus-

State of Maharashtra, through P.O. Murtizapur, District Akola.

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

Court's or Judge's orders

Shri A.A. Dhawas, Advocate for the Applicant.
Shri A. Chutke, A.P.P. for the Non-applicant.

CORAM : VINAY JOSHI, J.

DATE : DECEMBER 06, 2021

Heard.

2. Daughter of deceased has lodged a report on 30.06.2021, alleging that her father- Deepakraj was murdered. The informant has stated that one Dhammpal @ Aadesh [deceased] used to harass another daughter of the deceased and therefore, on 30.06.2021 Deepakraj went to the house of Dhammpal. According to the informant, at that time her father Deepakraj was assaulted by Dhammpal, his brother Vinod, father Mahadeo and mother Indubai. Soon after the

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assault, Deepakraj stated to run, on which some villagers beated him by means of kicks, fist blows and sticks.

3. Infact the story narrated by the informant is in the form of oral dying declaration allegedly made by the deceased Deepakraj. On the basis of the said report a crime was registered against Dhammpal [now deceased], Vinod, Mahadeo, Indubai and 8 to 10 unknown villagers.

4. It reveals from police papers that before lodgment of this report, the co-accused Vinod has lodged a report with the police alleging that Deepakraj [deceased of this crime] had assaulted Dhammpal by means of knife. Co-accused who are named in the first information report have been protected by this Court in Criminal Application (ABA) No.550/2021. It emerges from police papers and reply-affidavit that the applicant is arrayed in the case as one of the villager, who allegedly assaulted the deceased Deepakraj.

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Already police have completed the investigation and charge sheet has been filed.

5. The learned A.P.P. has pointed out that one of the witness namely Babarao has stated that he has seen the applicant while assaulting the deceased Deepakraj. Contextually, I have gone through all the relevant statements about second part of the incident of assault. Though there are statements of Sahebrao Gawai and Dhananjay Khot, who have seen the occurrence, however, they have not stated that the applicant had beaten Deepakraj by means of rod. Besides that there is no material against the applicant. The applicants' name is not mentioned in the first information report. It reveals that the statement of Babarao is recorded after one week from the incident.

6. Considering the nature of accusation and available material, applicants liberty can be protected by directing him to join the course of investigation. Hence the

following order.

- (i) Criminal Application is allowed and disposed of.
- (ii) In the event of arrest of the applicant/accused Shashikant Bhagwanrao Atote in connection with Crime No.303/2021 registered with the non-applicant – Murtizapur (Gramin) Police Station, District Akola for the offence punishable under Sections 302, 143, 147, 148, 149 and 504 of the Indian Penal Code, he be released on bail on his furnishing P.R. Bond in the sum of Rs.25,000/- with one surety in the like amount.
- (iii) The applicant/accused shall attend the concerned police station on every Sunday in between 11 a.m. to 2 p.m, for a period of 90 days from the date of this order.
- (iv) The attendance of the applicant with the police station shall amount to deemed custody under Section 27 of the Indian Evidence Act.
- (v) The applicant/accused shall not tamper with the prosecution evidence in any manner.

JUDGE

RAKESH GANESHLAL DHURIYA

Rgd.

07.12.2021 14:52