

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

CRIMINAL APPLICATION (BA) 1268 OF 2021

(Yogesh @ Mutana s/o. Ishwar Banjare..vs.. State, thr PSO, PS Kalamna, Dist. Nagpur)

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

Court's or Judge's orders.

Mr. C.R. Thakur, counsel for applicant.
Mr. N.R. Rode, APP for non-applicant /State.

CORAM: ROHIT B. DEO, J.
DATE:21.12.2021.

Heard.

2. The applicant is seeking bail in connection with Crime 29/2021, registered with Police Station Kalamana, District Nagpur, for offences punishable under sections 143, 147, 148, 149,302,323,324,504 of Indian Penal Code and section 135 of Maharashtra Police Act.

3. 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.

4. 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

5. The investigation is complete and the chargesheet is filed. The applicant has no criminal antecedent and he is relatively young, aged 20 years.

6. Prima facie, it does not appear that the applicant is attributed the role of assaulting the deceased Mr. Vinay. It is true that one of the witnesses states in general term that the applicant and others assaulted the deceased Mr. Vinay, the informant Mr. Vinod and Mr. Dharmendra by fists and blows. However, the version of the other witnesses including injured Mr. Vinod prima facie does not appear to be that any direct role was played by applicant in causing the death. I have already granted bail to two co-accused observing that applicability and relevance of section 149 of the Indian Penal Code shall have to be left to the trial Court to determine on the basis of evidence on record, considering the factual matrix.

7. 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.

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

(a) The applicant be released on bail in

connection with Crime 29/2021, registered with Police Station Kalamana, District Nagpur, for offences punishable under sections 143, 147, 148, 149, 302, 323, 324, 504 of Indian Penal Code and section 135 of Maharashtra Police Act, 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

Belkhede