

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

CRIMINAL APPLICATION (BA) NO. 7/2022
Jaganath Damodar Narokar...Versus...State of Maharashtra

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

Court's or Judge's orders

Mr. R.R.Prajapati, Advocate for the Respondent
Mr. S.M.Ghodeswar, APP for respondent/State

CORAM : AVINASH G. GHAROTE, J.

DATE : 15/02/2022

Heard Mr. Prajapati, learned counsel for the applicant.

2] The applicant has been arrayed for the offence under Section 302 read with Section 34 of the IPC. The date of incident is 5.5.2021, the applicant was arrested on 6.5.2021 and the charge-sheet has been filed on 29.7.2021.

3] Mr. Prajapati, learned counsel for the applicant submits that except for the complainant Shivaji Sudhakar Sapkal and Ramesh Ramkrushna Bhagat, who state that at the time of the assault by Balram, the applicant had caught hold of the hands of the deceased, all other witnesses state that the applicant was standing aside, when the incident had happened. He invites my attention to the statement of Kusumbai Sudhakar Sapkal (pg. 90), her supplementary statement recorded on 24.6.2021, the statement of Nita

Shivaji Sapklal (pg. 93) and the statement of the child witness Khushi Bhujang Sapkal (pg.95). He therefore submits that there is no assault by the applicant and though two of the witnesses attributed the action of holding the hands of the deceased by the applicant at the time of the incident, the other witnesses on the contrary state that he was standing aside. He therefore submits that considering the above contradiction and the fact that the applicant has been arrested on 6.5.2021, the charge-sheet having been filed on 29.7.2021, the further incarceration of the applicant is not justified.

4] Mr. Ghodeswar, learned APP relying upon the statement of the complainant as well as Ramesh Ramkrushna Bhagat submits that the applicant had role to play in the assault by catching hold of the hands which felicitated the assault by Balram and therefore, the applicant's role being there, he ought not to be released on bail.

5] The deceased in this case is one Bhujang Sapkal and the report was lodged by his real brother Shivaji Sapkal. The incident had occurred on 5.5.2021 at 10 o'clock in the night. Though the statements of Shivaji and Ramesh attribute the action of holding the hands of the deceased to Jagannath, the applicant, the statements of Kusumbai, Neeta and Khushi spell out a contrary position inasmuch as they say that they have seen the applicant standing aside while Balram was

assaulting the deceased.

6] Though the presence of the applicant on the spot is not disputed, however, the role attributed to the applicant, in view of the above contradictory statements becomes doubtful prima facie. Since the entire investigation has been completed, I do not see any further reason to continue the further incarceration of the applicant. Hence the following order.

7] The application is allowed.

The applicant be released on the bail for the offence under Section 302 r/w 34 of the IPC in Crime No.112/2021, on his executing PR bond in the sum of Rs.1,00,000/- and solvent surety of the like amount.

The applicant shall not tamper with the evidence and influence the prosecution witnesses in any manner whatsoever.

The applicant shall attend each and every date of the trial and shall ensure that the trial is not protracted on his count.

During the course of the trial, the applicant shall not enter the jurisdiction of PS Yeoda, Dist. Amravati, except with the prior permission in writing of the I.O.

Rvjalit

JUDGE

Digitally sign by RAJESH
VASANTRAO JALIT
Location:
Signing Date: 15.02.2022 16:23