

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

CRIMINAL APPLICATION (BA) NO. 146 OF 2022

Mahendra Singh Gopal Singh Rajput..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. V.S.Ingle, Advocate for the applicant
Mr. A.R.Chutke, APP for respondent/State

CORAM : AVINASH G. GHAROTE, J.

DATE : 03/03/2022

Heard Mr. Ingle, learned counsel for the applicant.

2] The applicant is arraigned for the offence under Sections 302, 201, 396, 34 of the IPC r/w Section 25(4) of the Arms Act and Sections 37(1) and 135 of the Bombay Police Act in Crime No. 375/2016. The incident is dated 26.9.2016. The FIR was lodged on 27.9.2016. The applicant was arrested on 6.10.2016. The charge-sheet has been filed on 4.1.2017 in respect of the other co-accused and the supplementary charge-sheet has been filed on 18.1.2022.

3] Mr. Ingle, learned counsel for the applicant submits that the applicant has been falsely arrayed as an accused. There are no eye witnesses to the alleged incident. The confessional statements of the other co-accused cannot be taken into consideration for the purpose of the present application. There is no recovery from the applicant and

therefore the applicant is entitled to be released on bail.

4] Learned APP opposes the application and submits that the conduct of the applicant itself indicates his involvement in the matter. He submits that though the applicant was arrested on 6.10.2016, he however ran away from the custody on 7.10.2016, as a result of which an offence under Section/s 224 of the IPC has been registered against him. The applicant thereafter was arrested on 27.11.2021 and the supplementary charge-sheet has been filed on 18.1.2022. The applicant has criminal antecedents, for which reliance is placed upon the chart (page 161). He therefore submits that the application be rejected.

5] The incident is dated 26.09.2016, on which date it is claimed that the applicant along with other co-accused had with an intention to commit robbery assembled at Lehgaon Fata at about 10.00 p.m, when the deceased who was travelling on motor-cycle came from Daryapur, travelling towards Anjangaon and was asked to stop, however, since he did not stop, all the accused followed him upon the motor-cycle, whereupon the applicant is said to have assaulted the deceased with a spear on his face and so also other co-accused had also assaulted him by iron pipe and gupti, as a result of which the victim namely Amar Sukhdeo Sable lost his life. The Motor-cycle on which he was travelling was thrown into the road side ditch after removing the battery. All

the weapons involved have been recovered at the instance of the co-accused Kapil.

6] Mr. Ingle, learned counsel for the applicant by inviting my attention to the arrest form (pg 130) submits that there is a violation of the requirement of Sec. 41-B Part II of Cr.P.C., in as much as there is no information given to the relatives of the applicant regarding his arrest and the form has also not been signed by him, to contend that there was no arrest at all on 6.10.2016. However, the FIR No. 387/2016 dated 7.10.2016 speaks about a different story altogether and records that when the applicant was brought to the Police Station, he escaped from the back door of the SDPO Office by jumping from the wall and has been accosted on 27.11.2021 only. The above said would indicate that the applicant has been involved in a serious offence and though the confessional statement of the co-accused cannot be looked into, however the over all circumstances brought on record indicate the prima facie involvement of the applicant. Moreover, the conduct of the applicant as described above does not inspire confidence about his activities in case he is released on bail, considering which I am not inclined to accept the application, the same is accordingly rejected.

Rvjalit

JUDGE

Digitally sign by RAJESH
VASANTRAO JALIT
Location:
Signing Date: 03.03.2022 17:37