

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

CRIMINAL APPLICATION (BA) NO. 311/2022
Sandip Khunilal Bopche...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. H.G.Katekar, Advocate for applicant
Ms. M.H.Deshmukh, APP for non-applicant /State

CORAM : AVINASH G. GHAROTE, J.

DATE : 27/04/2022

Heard Mr. Katekar, learned counsel for the applicant and Ms. Deshmukh, learned APP for non-applicant/ State.

2] The applicant is arraigned for the offence under Sections 302, 120B, 143, 144, 147, 148, 149 IPC, Section 4 & 25 of the Indian Arms Act and Sections 3(1)(ii), 3(2), 3(4) of the MCOCA Act in Crime No. 361/2021. The incident is dated 1.7.2021. The applicant has been arrested on 2.7.2021. The charge-sheet has been filed on 18.11.2021.

3] Mr. Katekar, learned counsel for the applicant submits that the applicant has not been named in the FIR, neither any of the eye-witnesses have named him or indicated his presence on the spot of the incidence, considering which the applicant is entitled to bail.

4] Learned APP opposes the application on the ground that the CDR indicates that the applicant was in constant touch with the accused persons and therefore was involved in the conspiracy. She however does not dispute that none of the witnesses have named him. She however on the basis of the CDR contends that the applicant was on the spot and therefore, the application needs to be rejected.

5] The incident is dated 1.7.2021 on which date, deceased Sunny, the son of the complainant, after having his dinner went out of the house at about 8.15 p.m. Within five minutes of his departure, Natwar Gopal Verma came to the house of the complainant and informed her that the deceased was being assaulted by 4 persons, who are named by him. The complainant as well as her daughter and sister went to the spot and saw the accused No. 1 Riyaz Sheikh assaulting the deceased by knife, whereas the accused Nos. 2, 3 and 5 had caught hold of him. The statement of the complainant Smt. Sharda Chauhan under Section 164 of Cr.PC (pg 133), as well as that of Khushabu (pg. 135), Bhagwati (pg. 136) and Natwar Verma (pg. 138) do not name the applicant, nor is the presence of the applicant indicated on the spot. The only linkage which is tried to be established for the involvement of the applicant in the alleged offence is the CDR report which indicates the location of the mobile claimed to have been owned by the applicant on the spot of the incidence,

considering which position, a case for bail is made out. Hence the following order.

O R D E R

I] The application is allowed.

II] The applicant Sandip Khunilal Bopche, be released on bail in Crime No. 361/2021 registered by the Police Station MIDC, Nagpur, for the offence under Sections 302, 120B, 143, 144, 147, 148, 149 IPC, Section 4 & 25 of the Indian Arms Act and Sections 3(1)(ii), 3(2), 3(4) of the MCOCA Act, on his executing PR bond in the sum of Rs.50,000/- with two solvent sureties of the like amount.

III] The applicant shall not tamper the prosecution evidence or try to undue influence the prosecution witnesses directly or indirectly in any manner.

IV] The applicant shall attend the trial before the learned Sessions Court on each and every date and shall ensure that the trial is not protracted on his count.

V] Any violation of the above conditions shall result in cancellation of bail.

JUDGE

Rvjalit

Digitally sign by RAJESH
VASANTRAO JALIT
Location:
Signing Date: 27.04.2022 14:37