

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

...

CRIMINAL APPLICATION (BA) NO. 1410/2022

Naresh Kumar Kamal Singh Tekam

.. Applicant

versus

The State of Maharashtra

Th: Its PSO, PS, Hudkeshwar, Nagpur

.. Respondent

.....
Mr. J.R.Rathod, Advocate for the applicant

Mr. A.M.Kadukar, APP for Respondent
.....

CORAM: ANIL L. PANSARE, J.

DATED : 13th January, 2023

PC:

Heard the learned counsel for the respective parties at length.

2. The applicant has been arrested on 27th May, 2018 in Crime No. 334/2018 for the offences punishable under Sections 302, 120B, 201 read with Section 34 of the Indian Penal Code registered at Police Station, Hudkeshwar, Nagpur.

3. In all, there were four accused out of which three accused have already been released on bail, whereas the fourth one is before this Court. This is the second Bail Application filed u/s. 439 of the Criminal Procedure Code. The first application being Criminal Application (BA) No. 509/2019 filed by the applicant was withdrawn on 6.8.2019 with a direction to the trial court to expedite the proceedings.

4. Learned APP submits that the trial has commenced and the main witnesses in the matter have been examined. The learned Advocate for the applicant has drawn my attention to the evidence of the

informant wherein he failed to identify the accused persons including the present applicant.

5. Briefly stated, the facts of the case are that on 25th May 2018, the son of the informant was assaulted who then succumbed to his injuries. The FIR came to be lodged on 26th May, 2018. According to the informant, on the day of the incident he himself, his son and one Pravin Ramteke had consumed liquor in his house. The lights got switched off and, therefore, his son went outside to find out the reason therefor. At that time, his son sustained stone injuries. The informant has stated that some unknown persons had assaulted his son with rod and stones. However, the informant stated that when the assailants were running away, one of the assailants took the name of Kangaroo and the said Kangaroo is said to be the present applicant. The applicant denies that his nickname is/was Kangaroo. In context with the above theory, a query was made whether the applicant was put to test identification parade, the answer is 'no'. Thus, during the course of investigation, the investigation agency failed to ascertain the identity of the assailants. In addition, now in the Court also, the informant failed to identify the accused persons. As stated above, the co-accused have already been released on bail. The reply filed on behalf of the Respondent-State indicates that the main witnesses have already been examined. In the circumstances, considering that the informant has failed to identify the applicant and the fact that the main witnesses have been examined and on the basis of benefit of parity, I am of the opinion that the applicant is entitled to be released on bail. Hence, the following order :

(i) The Application is allowed.

- (ii) If not required in any other case, the applicant-Naresh Kumar Kamal Singh Tekam, be released on bail, in connection with Crime No. 334/2018 registered with Police Station Hudkeshwar Dist. Nagpur for an offence punishable under Sections 302, 120(B), 201, r/ws. 34 of the Indian Penal Code, on he furnishing PR. bond in the sum of Rs. 25,000/- with one solvent surety in the like amount.
- (iii) The applicant shall, at the time of execution of bond, furnish his address and telephone/mobile number (s) to the Investigating officer and the Court concerned, and shall not change the residence till the final disposal of the case.
- (iv) The applicant shall regularly attend the court and cooperate the learned trial Court to complete the trial for the above offences. The applicant shall not seek adjournments, except under extreme circumstances to the satisfaction of the trial Court.
- (v) The applicant shall not directly or indirectly make any inducement, threat or promise to any witness acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or any Police Officer.
- (vi) The applicant shall not leave the territory of Nagpur District without prior permission of the Court, till the trial is over.
- (vii) The applicant shall maintain law and order.
- (viii) In case of breach of any conditions, the learned trial Court is at liberty to cancel the bail after giving opportunity of hearing to both the sides.

The Application is disposed of in the above terms.

[ANIL L. PANSARE, J.]

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Digitally Signed By NARENDRA
BHAGWANTRAO SAHARE
Location:
Signing Date: 16.01.2023 17:30