

**IN THE COURT OF SESSIONS JUDGE, NAGPUR.**

(Presided over by S.T. Bhalerao, A.S.J.-6)

**Sessions Trial No. : 146 of 2017.**

**Applicant** : **Shubham s/o Shamu Neware,**  
Aged about 21 years, Occupation : Labourer,  
R/o Bhande Plot, Sakkardara, Nagpur.

**V E R S U S**

**Non-applicant** : **State of Maharashtra**  
Through Police Station Officer,  
Police Station Ajni, Nagpur.

**ORDER BELOW EXHIBIT 18**

(Passed on this 11<sup>th</sup> day of December, 2017)

This is an application for grant of regular bail filed by applicant/accused named Shubham Shanbhu Neware under Section 439 of the Code of Criminal Procedure, 1973, in Session Trial No. 146/2017 arising out of Crime No. 86/2016 for the offence punishable under Sections 302 read with 34 of the I.P.C. registered at Police Station Ajni, Nagpur.

2] It is submitted that the applicant/accused No. 2 has not assaulted the deceased by means of any weapon. The recent circumstance is that co-accused named Akash Lillare has been released by this Court on regular bail. The status of that accused and this accused/applicant is same. Both were identified in identification parade by the witnesses. The applicant is ready to abide by all the conditions of bail. It is prayed to allow the application.

3] The learned A.P.P. opposed the application contending therein that there is material evidence against the applicant including C.C.T.V. Footage. If the applicant is enlarged, there is possibility of tampering the prosecution witnesses. The applicant has been identified by the identification parade. Specific role of the applicant is assigned. The witnesses have stated about his involvement in the crime. The weapon of murder came to be seized from the custody of this witness. Considering all these aspects, the application be rejected.

4] The learned Advocate for the applicant submitted that the role of the applicant is not different than that of the accused Akash who came to be released by this Court on bail. Both are stated to have been identified in test identification parade. It is submitted that the allegedly recovered knife from the applicant is not stated to have been used by him, but by another accused. It is submitted to release the applicant on parity.

5] The learned A.P.P. submitted that the role of this accused is different than that of the co-accused Akash. Recovery of weapon is made at the instance of this accused, such recovery was not made from the said Akash.

6] I went through the charge-sheet. It is seen that the role of this applicant/accused is mentioned in the charge-sheet. The main accused Sagar, this applicant and a juvenile-in-conflict with law assaulted the deceased by means of fist blows. While the deceased was trying to flee, the main accused assaulted him by means of a knife. Against the present accused, there are direct witnesses about his involvement in the crime. A

knife by which the main accused allegedly assaulted the deceased came to be recovered at the instance of this accused. He had been identified in the test identification parade. C.C.T.V. Footage is there in respect of the crime against this accused.

7] The co-accused Akash is not stated to have inflicted any injuries to the deceased. His role is stated to have taken away the accused persons on his bike after occurrence of the incident. No weapon is stated to have been recovered at his instance. No witnesses are stated to have made statement that the said Akash was seen inflicting the injuries to the deceased. Thus, the role of said Akash cannot be said to be similar to that of the present applicant/accused, therefore, he is not entitled to claim the parity.

8] The offence is very serious – a murder, in which this applicant's role is mentioned as assaulting him at the time of incident. There are eye-witnesses of the incident. The possibility of tampering the witnesses cannot be ruled out on the released of this accused. There is *prima facie* material against the applicant/accused. Though the charge-sheet has been presented, that itself does not entitle the applicant's release on bail. Hence, the following order.

**ORDER**

**The application (Exh.18) is rejected.**

Nagpur.  
Dated : 11.12.2017

( **S. T. Bhalerao** )  
Additional Sessions Judge-6,  
Nagpur.

**C E R T I F I C A T E**

I affirm that the contents of this PDF file Order are same word to word, as per the original Order.

Name of Stenographer : P.K. Tambe