

IN THE COURT OF SESSIONS JUDGE, NAGPUR.

(Presided over by S.T. Bhalerao, A.S.J.-4)

Sessions Trial No. : 146 of 2017.

(CNR NO. : MHNG01-002717-2017)

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

// **VERSUS** //

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

ORDER BELOW EXHIBIT 26

(Passed on this 20th day of March, 2018)

This is a subsequent application for grant of regular bail on the ground of parity, filed by applicant/accused No. 2 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 Section 302 read with 34 of the I.P.C., Section 4/25 of the Arms Act and Section 135 of the Maharashtra Police Act registered at Police Station Ajni, Nagpur.

2] It is submitted that the co-accused namely Sagar Pujari whose role is attributed that he assaulted the deceased with knife, has been released by the Hon'ble Bombay High Court, Bench at Nagpur. The role of that co-accused is much more than the present accused.

3] The previous bail application of this accused came to be rejected. However, as the main accused Sagar Pujari has been enlarged by the Hon'ble High Court, this is a change in circumstance for filing the fresh application for bail. The accused is ready to abide by all the conditions of bail. It is prayed to allow the application.

4] The learned A.P.P. opposed the application by filing say on the overleaf of the application. It is contended that there is material evidence against this accused including C.C.T.V. Footage. If this accused is enlarged, there is possibility of tampering the prosecution witnesses. The accused has been identified at the identification parade. Specific role of this accused is assigned. The witnesses have stated about his involvement in the crime. Considering all these aspects, the application be rejected.

5] The learned Advocate for accused No. 2 submitted that the role of this accused is lesser than that of the main accused Sagar Pujari who has been released by the Hon'ble Bombay High Court, Bench at Nagpur in Criminal Application (BA) No. 116 of 2018 on 8.02.2018.

6] The learned Advocate for accused No. 2 further submitted that on parity, this accused is entitled to be enlarged though his previous application has been rejected by this Court on various grounds. He placed reliance on the order passed by *the Hon'ble Bombay High Court, Bench at Nagpur in Criminal Application (BA) No. 684 of 2015 (Sheikh Jafar s/o Sheikh Zaheeruddin Vs. State of Maharashtra) on 30.09.2015*. Wherein the Hon'ble High Court was pleased to grant the subsequent bail application on a parity, when the earlier application of the applicant was rejected. That

matter was also punishable under Section 302 of the I.P.C. and other Sections.

7] It is seen that this Court had rejected the bail application of this accused on various grounds including that the offence was very serious – a murder, in which this accused's role is mentioned as assaulting him at the time of incident. There were eye-witnesses of the incident. The possibility of tampering the witnesses could not be ruled out on the released of this accused. There was a *prima facie* material against this accused. Though the charge-sheet has been presented, that itself did not entitle this accused's released on bail.

8] However, in view of the order passed by the Hon'ble High Court releasing the main accused in Sagar's case (*supra*), whose role that is inflicting stab injuries is graver than this accused's that is caught holding while the stabs were inflicted, this accused is entitled to be released on bail on parity.

9] Hence, only on the ground of parity, in view of the orders of the Hon'ble High Court passed in Sagar's case and in Sheikh Jagar's case (*supra*), this accused is entitled to be released on bail on the same conditions imposed by the Hon'ble High Court in Sagar's case (*supra*). Hence, the following order.

ORDER

- [i] The application (Exh.26) allowed.
- [ii] The applicant/accused No. 2 Shubham s/o Shamu Neware be released on bail on his executing a P.R. Bond in the sum of Rs.25,000/- (Rs. Twenty Five

Thousand only) with two solvent sureties of the like amount in connection with Crime No. 86/2016 registered with Police Station Ajni, District Nagpur for the offences punishable under Section 302 read with Section 34 of the Indian Penal Code, Section 4/25 of the Arms Act and Section 135 of the Maharashtra Police Act.

- [iii] The accused No. 2 shall attend the Police Station twice a month i.e. on 1st and 3rd Saturdays and shall be in the Police Station from 1.00 p.m. to 5.00 p.m., till culmination of the trial.**
- [iv] The accused No. 2 shall not cause any type of threat to any of the prosecution witnesses.**

Nagpur.
Dated : 20.03.2018

(S. T. Bhalerao)
Additional Sessions Judge-4,
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