

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

Criminal Application [BA] No.21 of 2015

(Radhyesham Gulabrao Andhale vs. State of Maharashtra, through P.S.O. Malegaon, Distt. Washim)

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Office notes, Office Memoranda of
 Coram, appearances, Court's orders
 or directions and Registrar's orders.

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Court's or Judge's Orders

CORAM : PRASANNA B. VARALE, J.

DATE : FEBRUARY 02, 2015.

Heard Mr. R.M. Daga, the learned Counsel for the applicant.

The applicant is before this Court seeking his enlargement on bail in connection with Crime No.74/2014, registered at Malegaon Police Station, District Washim for the offences punishable under Sections 307, 143, 147, 148, 336, 324, 323 read with Section 149 of the Indian Penal Code.

The learned Counsel for the applicant invited my attention to the report lodged against the present applicant and other accused at the instance of Sau. Vandana Gholve. It is stated in the report that at about 02:30 p.m. on 23rd June, 2014, the accused namely Manohar, his sons Yogesh and Rameshwar, his wife Arunabai and the present applicant picked up a quarrel on a petty issue of agricultural operation. It is alleged that the applicant was armed with a stick and other accused were armed with iron rods. By the assault, the husband of Sau. Vandana viz.

Pandurang and her father-in-law received serious injuries. The learned Counsel for the applicant submits that the said report is noting but a counter blast to the report lodged at the instance of Manohar Kayande. He invited my attention to the copy of F.I.R. lodged at the instance of Manohar bearing Crime No.73/2014. He submits that this report was lodged on 23rd June, 2014 at about 07:30 p.m. He submits that as per the report of Manohar, Digambar, his sons Pandurang and Vitthal and other family members started objecting Manohar, who was carrying out some agricultural operation in his own field. Digambar was armed with iron rod and Pandurang and Vitthal were armed with swords. On the objection raised, Manohar and his family members replied that as the operation is being carried out in their own field, they need not object it. Pandurang, Vitthal and Digambar, who were armed with rod and sword, were not in a mood to pay any heed and started an assault. The applicant Radheshyam and one Madhav tried to intervene in the quarrel and in that process Radheshyam received a sword blow. The submission of the learned Counsel was two fold viz. the role attributed to the applicant in the report lodged at the instance of Sau. Vandana is of having armed with stick and participating in assault with the stick, whereas in the report firstly lodged by Manohar, the applicant Radheshyam himself was an injured. Thus, the submission is, the story put up by Sau. Vandana is a

counter blast and with a revengeful attitude. The other submission is, assuming the incident took place as alleged by Sau. Vandana, though not admitted the same, the aggressors in the assault were the relatives of Sau. Vandana herself, as it is reflected from the report of Manohar.

In support of his submission, learned Counsel Mr. Daga for the applicant also placed on record the copy of injury certificate issued by Rural Hospital, Malegaon, District Washim. The same is taken on record and marked as "X" for identification. The injury report of Radheshyam i.e. the present applicant, shows that the applicant was subjected to medical examination on 23rd June, 2014 at 07:00 p.m. and it refers to one incised wound and one contusion. The incised wound is having size of 1 cm x 0.3 cm x 0.2 cm approximately on the back of left knee joint caused of sharp edged weapon. The learned Counsel for the applicant, therefore, submits that on the backdrop of this material, the applicant is entitled for his enlargement on bail.

Mr. D.B. Patel, the learned A.P.P. vehemently opposes the application. He submits that these are the two counter cases lodged by two groups against each others. He submits that the applicant and other co-accused were armed with sticks and iron rods. He submits that there is a material of participation of this applicant in commission of the crime.

Considering the material placed on record, namely the report lodged at Malegaon Police Station, which is prior in point of time, there is merit in the submission of the learned Counsel for the applicant that the report lodged at the instance of Sau. Vandana seems to be a counter blast. The other material namely the injury certificates of applicant-Radheshyam also supports the submission of the learned Counsel for the applicant that the applicant, who tried to intervene in the quarrel, received a blow resulting in incised wound. Thus, the report lodged at the instance of Manohar at least shows an element of some truthfulness. The learned Counsel for the applicant has made out a case for enlargement of the applicant on bail.

In the result, the application is allowed. The applicant be released on bail on his furnishing P.R. Bond in the sum of Rs.20,000/- (Rupees Twenty Thousand Only) with one or two solvent sureties in the like amount on the following conditions.

- i. The applicant to attend Malegaon Police Station, District Washim on every second and forth Sunday of the month from 09:00 a.m. to 12:00 noon and maintain diary of his attendance duly countersigned by the Police Station Officer, till commencement of the trial.
- ii. The applicant shall not tamper with the evidence nor commit any act such as contacting the prosecution

witnesses or pressurize them.

iii. The applicant to submit his residential address and contact numbers, such as phone/mobiles numbers, to the investigating agency or in case of change.

iv. In case the applicant is moving out of the area of Malegaon Police Station, he shall take permission and inform the concerned Police Station about his visit to other place.

In case of any breach of the conditions by the applicant, the State would be at liberty to move this Court.

Needless to say that these are the observations of the Court while deciding the present bail application and the learned Sessions Judge may not be influenced by these observations while conducting the trial.

The application is disposed of as such.

JUDGE

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