

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

Criminal Application [ABA] No.59 of 2015

(Ravi @ Ravichand Horilal Luderkar

vs.

The State of Maharashtra, through P.S.O. Rana Pratap Nagar, Nagpur)

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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 : MARCH 5, 2015.

Heard Mr. U.P. Dable, the learned Counsel for the applicant.

The applicant has approached this Court apprehending his arrest in the nature of pre-arrest bail in connection with Crime No.339/2014, registered at Pratap Nagar Police Station, Nagpur for the offences punishable under Section 307, 143, 147, 148 120-B of the Indian Penal Code.

The learned Counsel for the applicant invited my attention to the report lodged at the instance of one Sandeep Raut on 24/07/2014. The learned Counsel submits the report refers to eight assailants and one of them using a sharp edged weapon like chopper (Koyta) and other giving fist blows to the victim. The learned Counsel then submits that there is absolutely no reference either of presence of the applicant or any role played by the applicant in the report. He submits that the

applicant, who was apprehending his arrest on the basis of some statement of the accused robbing him, approached the learned Sessions Judge. He submits that the application rejected by the learned Sessions Judge on 09/09/2014 was his second attempt. He, by inviting my attention to the document placed on record, namely the Secondary Board Examination Certificate, submits that the applicant secured good marks in the Board Examination and he prosecuted his degree course. He further invited my attention to the Bonafide Certificate issued by the Institute, namely Mahalaxmi Jagdamba Mahavidyalaya. He submits that apart from the academic career, the applicant participated in the sport activities and referred to the Certificate issued by the Taekwondo Association of Maharashtra, Mumbai. The Certificate refers to the participation of the applicant and it further refers that the applicant secured first position in the Taekwondo competition. The learned Counsel then invited my attention to the documents placed on record showing that the applicant also appeared in the examination conducted by the Staff Selection Commission. The applicant is having a clear academic record at his credit and is also a student participating in sport activities and as such free from any criminal antecedents to discredit him, is falsely implicated on a very weak material, is the submission of the learned Counsel for the applicant. As all the necessary material is collected by the investigating agency against the

assailants-accused, who have played major role in the assault and the applicant is ready to extend all possible cooperation to the investigating agency, the learned Counsel prays for protection to the applicant in the nature of pre-arrest bail. He further submits that apart from this insufficient material, the claim against the applicant of involvement in an offence itself would be a hurdle in securing a good position in the life of the applicant.

Mrs. S.S. Jachak, the learned A.P.P. vehemently opposes the application. It is the submission of the learned A.P.P. that one Firoz Pathan had hatched the conspiracy and the applicant is also one of those members, who gave effect to the conspiracy hatched. Thus, the learned A.P.P. fairly submits that there is no reference against the applicant in the report, but one of the eye-witness viz. Kaustubh Gaikwad states about the assailants. The learned A.P.P. further submits that the custodial interrogation of the applicant would be necessary, as the applicant was not available with the agency in spite of rejection of his application on 09/09/2014.

In view of the rival contention of the learned Counsel appearing for the applicant as well as the learned A.P.P., I have gone through the material placed on record.

The report reflects a story in short of a kiosk owner running a kiosk of food articles assaulted by a group of 7 to 8

assailants. The report refers to one Kaustubh. The statement of Kaustubh is recorded by the investigating agency. He supports the report and then refers, out of these assailants, one gave a chopper blow on the vital part of the victim Sandeep and other gave kick and fist blows. Thus, considering the material on the backdrop of the reply filed by the State, which refers to Kausthub as the witness of the incident, and alleges that the statement of Kausthub refers to the role played by the applicant, the material in the form of statement of Kausthub at the most refers to fist and kick blows. It will not be out of place to mention that Kausthub is also not referring the names of the assailants. Even considering this material, the role played by the applicant as alleged by the investigating agency seems to be giving some fists blows. The lead role of a serious assault by sharp edged weapon played by one Ashish. Though it was the submission of the learned A.P.P. that the application of the applicant was rejected on 09/11/2014, there was a justifiable explanation offered by the applicant. The learned Counsel for the applicant submits that the applicant was attending some private classes for appearing himself to the examination being conducted by Staff Selection Commission in the State of Karnataka.

Considering the above referred material and in view of the submission of the learned Counsel for the applicant as

well as considering the material that the applicant has participated in various sport activities and was also having a good academic career, in my opinion, the applicant would be entitled for the protection, as claimed for. The apprehension of the State can be taken care of by imposing certain conditions.

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, in the event of his arrest in connection with Crime No.339/2014, registered at Pratap Nagar Police Station, Nagpur for the offences punishable under Section 307, 143, 147, 148 120-B of the Indian Penal Code.

The applicant to attend the Pratapnagar Police Station on every second and fourth Sunday from 09:00 a.m. to 12:00 p.m. till the charge-sheet is filed.

In case the applicant is moving out of Nagpur city, he shall intimate the Investigating Officer or the Police Station Officer in advance about his visit and also to intimate his address as well as phone/mobile numbers of a relative staying at Nagpur.

Hamdast granted.

JUDGE

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