

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

Criminal Application [BA] No.116 of 2015

(Pawan Makutrao Mahalle and another
vs.

The State of Maharashtra, through P.S.O. Ramdaspath, Akola)

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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 24, 2015.

Heard Mr. N.B. Bargat, the learned Counsel for the
applicants.

The applicants are before this Court seeking their
enlargement on bail in connection with Crime No.15/2015,
registered at Police Station Ramdaspath, Akola for the
offences punishable under Sections 449, 353, 332, 323 read
with Section 34 of the Indian Penal Code and under Sections
3 and 4 of the Prevention of Damage to Public Property Act,
1984.

The report lodged at the instance of the watchman
of the Government Rest House at Akola reveals that in the
intervening night of 31/01/2015 and 01/02/2015 at about
11:30, while this informant/complainant Arun Wankhade- the
watchman was attending his night duty and was in the
manager's chamber, the door was knocked. When the

watchman opened the door, he found two persons and on enquiry, he replied that he is a watchman. Those two persons by applying force entered in the manager's room and asked for dinner. They asked the watchman to call the cook and on refusal, they started beating and caused damage to the furniture in the manager's room. Apprehending by that act, the victim rushed to seek assistance from the police official, who was lodged at that relevant time in Suite No.2. Mr. Chaple, the police official, was informed by the complainant. Mr. Chaple then rushed to the manager's room and made an attempt to pacify those persons. In stead of paying any heed to the attempts of the police official, the applicant no.1 started arguing with the police official submitting that he is one Pawan Mahalle. Then the applicant no.1 manhandled that police official giving kick and fist blows and then by removing knife rushed to the person of that police officer. Mr. Chaple and the watchman then in an attempt to save themselves from the attack sought help from police personnels and rushed to the Ramdaspeth Police Station and then they were proceedings with three persons to the rest house. After finding that the the applicants were proceeding towards the Railway Station on motorcycle, the complainant and the police personnels chased the applicants. After they found that

the applicants were stopped before the Shivshankar Hotel, Mr. Chaple and other police officials made an inquiry. The applicants again started abusing and applicant no.1 gave call to applicant no.2 and asked him to get article (Zara) from the pan. The applicant no.2 then returned with Zara towards the informant and Mr.Chaple. Then duo i.e. the informant and Mr .Chaple then rushed to the Police Station Ramdaspath. The report was lodged accordingly.

The learned Counsel vehemently submitted that the report lodged against the applicants is nothing but a concocted and designed attempt of a revenge at the instance of Mr. Chaple, against whom the applicants made some complaints before the learned Magistrate. The learned Counsel then submits that the report on the face of it is improbable. He then submits that it is difficult to believe that the applicants would made such an attempt of rushing on a police personnels. He then submits that another report was lodged on the very day at the instance of one Jitendra Harne. His submission was, this was again an attempt to implicate the applicants with lodgment of another report on the very day. The learned Counsel then submits that the applicants are behind the bars since 1st of February, 2015 and as there is no material supporting the case of these reports, the applicants

be enlarged on bail.

Mr. A.H. Laddhad, the learned A.P.P. vehemently opposes the applicant. He made available the material collected by the investigating agency in the process of investigation. The report lodged at the instance of the watchman of the rest house clearly reveals the role played by the applicants, who were so aggressive, that they manhandled the police officials and caused ransack in the government rest house. Though, it was the attempt of the learned Counsel to submit that the second report was an attempt to implicate the applicants, perusal of the record shows that these reports reveal the subsequent event, namely, when the applicants were brought in the police station and when the Duty Officer Mr. Zodge made an attempt to cause inquiry with the applicants, the applicants rushed to Mr. Zodge and also gave abuses.

The material in the form of certificates presented by the learned A.P.P. for my perusal shows that informant Arun Wankhade was referred to the Government Medical College and Hospital, Akola. The certificate shows that blunt trauma over both sides of the chest. Then the certificate issued to another person, who supports the act of the applicants, also shows blunt trauma over right side of chest.

So also the certificate of Mr. Chaple is having blunt trauma swelling over left cheek. The statement of the witnesses are recorded. It will be interesting to refer to one of the statements of the hotel owner viz. Govardhan, who runs a hotel-restaurant, that on 31/01/2015 in the late hours, when he was about to close his business and was to proceed to his home, the applicants reached him and asked for the motorcycle. This witness then states that the police staff was following to the applicants and when the police staff wanted to catch hold the applicants, the applicant no.2 picked up a article (Zara) and rushed to the police personnel. Thus, this person in an attempt to save his life rushed towards the police station. This apart from the statement of this police officer and watchman, there is also a supportive statement of another witness. This statement also refer clearly reveals the aggression of applicant no.2. As such, I am unable to accept the submission of the learned Counsel for the applicants that there is nothing on record to show that the applicant no.2 had played any role in the incident. The statement of the watchman clearly reveals the act of applicant nos.1 and 2 at the guest house. The statement of Mr. Chaple also supports the report lodged by Arun Wankhede. The material is sufficient to enough for establishing the role played by the

applicants, who were in aggression and not even bother to rush over the police personnels and cause damage to the public property.

Considering this material, in my opinion, this is not a fit case to enlarge the applicants on bail. The application, being meritless, deserves to be rejected and the same is accordingly rejected.

Needless to state that these observations are on the backdrop of a prayer seeking enlargement on bail by the applicants. The learned Sessions Judge may proceed with the trial on its own merit without being influenced by these observations.

JUDGE

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