

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

Criminal Application [BA] No.123 of 2015

(Pramod @ Pintu s/o Ramkrushna Gulhane

vs.

The State of Maharashtra, through P.S.O. Morshi, District Amravati)

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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

Mr. S.V. Sirpurkar, Advocate for the Applicant.

Mr. M.J. Khan, A.P.P. for the Non-Applicant/State.

CORAM : PRASANNA B. VARALE, J.

DATE : APRIL 6, 2015.

Heard.

The applicant is before this Court seeking his enlargement on bail in connection with Crime No.22/2015, registered at Morshi Police Station, District Amravati for the offences punishable under Sections 143, 147, 148, 149, 307, 323, 504, 506 and 427 of the Indian Penal Code and Section 4 read with Section 25 of the Arms Act.

The learned Counsel Mr. Sirpurkar for the applicant, by inviting my attention to the report lodged at the instance of one Raisuddin Sheikh, submits that the informant refers to mob of 10 to 15 people in his report. His submission is, it is alleged in the report that initially four persons apprehended the vehicle and when the passengers in the vehicle came out of the vehicle, they were encircled by 10 to

15 people, who were armed with sticks and sharp edged weapons and assaulted the inmates of the vehicle. In that assault, the passengers of the vehicle were injured. The learned Counsel submits that though in the report it is stated that the police machinery was successful in apprehending four accused on the spot, and sticks, iron rods and swords were recovered from those four persons, the applicant is not named either in these four persons or in the unknown 10 to 15 people. He then submits that assuming the report as it is, the nature of injury referred to in the report to the so called victim fails to attract offence under Section 307 of the Indian Penal Code. The submission of Mr. Sirpurkar is, on such weak material, the applicant may not be retained for further indefinite period. He, apart from his submission on merit, also claiming parity with the other accused viz. Niraj Bhargav. Mr. Sirpurkar submits that applicant-Niraj was before this Court in Criminal Application [BA] No.109/2015 and on considering the material, this Court allowed the application of Niraj.

The learned A.P.P. Mr. Khan vehemently opposes the application. He submits that Crime No.22/2015, in which the applicant is involved as an accused, is a sequel of the earlier incident. Mr. Khan submits that on some issue,

initially the members of Qureshi group lodged a report. The other group with an revengeful attitude was moving in the town with deadly weapons and riot like situation was created. Mr. Khan then submits that on the direction of the main accused viz. Ravindra Gulhane, the small groups were approaching at various places and assaulted the people. He submits that the patrolling van was timely informed and the police machinery was successful in catching hold some of the assailants on the spot.

On the backdrop of the rival submissions of both the learned Counsel appearing for the respective parties, I have gone through the material collected by the investigating agency. It is not in dispute that while considering the application of Niraj Bhargav, I had an occasion to peruse the material and the nature of injuries caused to the victims. In the case of the present applicant, the allegation against the applicant is that he was present on the spot. The reply filed by the State shows that there was recovery of some articles and weapons against the applicant and such recovery is from his agricultural field. In the material collected by the investigating agency, the material refers to the presence of the applicant, but fails to refer any active participation of the applicant causing any injury to the victim.

Considering these aspects, in my opinion, the learned Counsel for the applicant has made out a case to enlarge the applicant on bail. The learned Counsel for the applicant was also justified in claiming parity with accused-Niraj Bhargav. The apprehension of the State can be taken care of by imposing certain conditions on the applicant.

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 sureties in the like amount on the following conditions.

- i. The applicant to attend Morshi Police Station, District Amravati 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 or the Investigating Officer, till filing of the charge-sheet.
- 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 Morshi 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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