

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

CRIMINAL APPLICATION (BA) NO.917/2015

(Komal Babusingh Ade.vs.State of Maharashtra, thr. PSO P.S. Manora, Dist.Washim)

WITH

CRIMINAL APPLICATION (BA) NO.910/2015

(Kisan Govardhan Ade..vs.State of Maharashtra, thr. Local Crime Branch, Washim)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's Orders.

Court's or Judge's orders.

Mr. R. M. Daga, Advocate for applicant in Criminal
Application No. 917/2015

Mr. A. M. Jaltare, Advocate for applicant in Criminal
Application No. 910/2015

Mr. S. S. Doifode, A.P.P. for non applicant-State.

Mr. S. V. Sirpurkar, Advocate for intervenor.

CORAM : A. B. CHAUDHARI, J.

DATE : JANUARY 13, 2016

In Crime No.38/2014 registered with Police Station, Manora, Dist. Washim for an offence punishable under Sections 147, 148, 149, 120-B, 302, 307 of the IPC and Section 135 of the Bombay Police Act, the applicants were arrested and are in jail.

Perused the statements of witnesses recorded by police. It is stated that applicant-Komal Ade along with Bandu assaulted Devidas by means of iron rod and pipes on his head. It is further stated that applicant-Kisan Ade was shouting "Mara Mara". In one of the orders, this court observed that Devidas was discharged within two days from the hospital because there was only fracture of mandible. I have seen the orders produced before me by

the learned counsel for the applicants. It is true that there is direct evidence against the applicant-Komal Ade of he assaulting Devidas. But then that would be an offence under Section 307 of the IPC namely; attempt to commit murder. Prima facie, there is no direct evidence of the applicants giving fatal blow to the deceased-Avinash.

Mr. Doifode, the learned A.P.P, contended that this being an unlawful assembly, the liabilities of the applicants are also equal and, therefore, bail cannot be granted to them. There is force in the contentions raised by Mr. Doifode, learned A.P.P. but then that is the matter of trial about finding of unlawful assembly and the role played by each of them.

So far as allegations against applicant-Kisan Govardhan Ade is concerned, it can be seen that the role attributed to him is that he was instigating the assailants who were part of the unlawful assembly.

In the explanation tendered by Incharge District Judge & Addl. Sessions Judge, Link Court, Mangrulpir, it is stated that there are 695 Sessions Trials pending before him at Mangrul Pir Court, which includes cases of the under trial prisoners. This Court is taken aback to see that 695 Sessions Trials are pending before a link Court and the Court hardly functions for even a half of the month. With this speed, I do not think that the Sessions Trial in the case of present applicants would reach the desirable stage.

Be that is may. Since in the earlier bail applications, I have made an order asking the applicants to remain outside the limits of Police Station, Manora, I think, interest of the prosecution can be taken care of by asking the present applicants not to enter the area of Police Station, Manora. Since there is no possibility of commencing and completing the trial in near future in view of heavy pendency of Sessions Trials and the Court working in part, I think, following order needs to be passed.

ORDER

(i) Criminal Application Nos. 917/2015 and 910/2015 are allowed.

(ii) Applicant-Komal Babusingh Ade and applicant-Kisan Govardhan Ade be released on bail in Crime No.38/2014 registered with Police Station, Manora for an offence punishable under Sections 302, 307, 147, 148, 149, 120-B of the IPC and Section 135 of the Bombay Police Act, on they executing P. R. Bond in the sum of Rs.20,000/- each with one surety each in the like amount.

(iii) The applicants shall not enter the area of Police Station, Manora, Dist.Washim during the pendency of the trial.

(iv) Copy of this order be sent to Registry for taking note of the fact that 695 Sessions Trials are pending before the Link Court at Mangrul Pir, Dist. Washim. It is

expected of the registry to take steps to make some arrangements expeditiously as the number of trials is on very higher side and I think, it is not possible for a Judge to expedite the trial even if it is ordered by this Court.

JUDGE

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