

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

CRIMINAL APPLICATION (BA) NO.143 OF 2017

Jaymala Sarayya Kedari and anr

..VS..

State of Maharashtra, through Police Station Officer, Police Station, Armori,
District Gadchiroli

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

Court's or Judge's Order

Shri V.N. Morande, Counsel for the applicants.
Shri A.V. Palshikar, Addl.P.P. for the non-applicant/State.

CORAM : P.N. DESHMUKH, J.
DATED : MARCH 21, 2017.

In continuation to order dated 16.3.2017, learned Additional Public Prosecutor has produced postmortem report of deceased Maroti and with regard to injury report of complainant's wife Sunita it is stated that since she did not sustain severe injuries, she was not referred for medical examination.

This application is filed by females accused involved in Crime No.4 of 2017 registered for the offences punishable under Sections 302, 324, 143, 147, 148, and 149 of the Indian Penal Code read with Sections 37(1) and 135 of the Bombay Police Act for bail.

Heard learned counsel for the applicants and learned Additional Public Prosecutor.

Learned counsel for the applicants has

submitted that from the case of prosecution no case attracting Sections 302 of the Indian Penal Code can said to be established against either of applicants as from report lodged by Baburao, only involvement of applicants stated to be is by way of their committing assault on his wife by fist blows and has thus contended that no case for the offence punishable under Section 302 of the Indian Penal Code can remotely be made out against these applicants and has therefore submitted that as there is no injury report of wife of complainant, it can even otherwise not say that as to what is the nature of injury sustained by her and thus has prayed that application be allowed, by imposing suitable conditions as two other minor females, who are similarly placed as per allegations in the report, are released on bail by the Trial Judge.

Learned Additional Public Prosecutor opposed the application as per its reply on record and has contended that apart from involvement of applicants in the report, their involvement is further found from statements of Shruti and Sunita, both eyewitnesses to the incident of assault by applicants upon complainant Baburao, and has, therefore, submitted that application be rejected as investigation is in progress.

Perusal of report on 8.1.2017 by Baburao reveals that both applicants along with co-accused Rupa

and Rekha, who are both on bail, had manhandled complainant's wife Sunita by fist blows. Learned Additional Public Prosecutor has already made a statement before matter was heard that as Sunita had sustained superficial injuries, she was not referred for medical examination.

In that view of the matter, there appears substance in the case of applicants about their involvement in an assault upon Sunita by fist blows. Undisputedly, other two females, minor girls, are released on bail.

With reference to submissions of learned Additional Public Prosecutor, perusal of statements of Shruti and Sunita reveals that applicant No.2 Asha had committed assault by stick on Baburao, the complainant, however it is material to note that Baburao in his report had not attributed any such assault on his head by any of applicants, but has contended that co-accused Raju had assaulted him on his head due to which he sustained head injury and fell down. Even otherwise, on perusal of injury report of Baburao, who appears to be immediately referred for medical examination, is certified to have sustained two simple injuries in the nature of abrasion and tenderness on his right fore head.

In view of involvement of applicants as aforesaid and as complainant is silent about assault

upon him by applicants, which is claimed by Shruti and Sunita, whose statements are recorded about 10 days after incident, applicants are found entitled to be released on bail by imposing the conditions.

Hence, the following order:

Application is allowed.

Applicants shall be released on bail on their executing a P.R. Bond in the sum of Rs.15,000/- each with one surety each in the like amount.

While on bail, applicants shall attend Armori Police Station, District Gadchiroli for a period of one week between 10:00 a.m. and 1:00 p.m. and thereafter as and when called, till filing of charge-sheet.

JUDGE

!! BRW !!

C E R T I F I C A T E

I certify that this Order/Judgment uploaded is a true and correct copy of original signed Order.

Uploaded by : Bhushan R.Wankhede.
(Personal Assistant)

Uploaded on :- 22/3/2017