

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

CRIMINAL APPLICATION (BA) NO.152 OF 2017

Nishant s/o Ashok Patil and anr

..VS..

The State of Maharashtra, through P.S.O. Lakadganj, Nagpur

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

Court's or Judge's Order

Shri A.S. Band, Counsel for the applicants.
Shri H.R. Dhumale, Addl.P.P. for the State.

CORAM : P.N. DESHMUKH, J.

DATED : MARCH 2, 2017.

This application is filed for grant of bail by accused involved in Crime No.363 of 2016 registered for the offences punishable under Sections 307 and 452 read with Section 34 of the Indian Penal Code and Sections 4-25 of the Arms Act and Section 135 of the Maharashtra Police Act.

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

It is submitted that from the report lodged by complainant Shubham Mate, it cannot be said that either of applicants had caused any injury sustained by him as injuries are attributed to co-accused Roshan Wanjari and Akshay Gote who have caused injuries on abdomen, hands, and eye of complainant. It is, therefore, contended that since injuries caused by co-

accused are also stated to be simple and as not a single injury is attributed to applicants, they be released on bail though investigation is in progress.

Learned Additional Public Prosecutor has opposed the application as per its reply on record stating that there is direct involvement of applicants as is revealed from the contents of report as well as statement of independent witness Raju and statement of Sanjay and, therefore, application is prayed to be rejected.

In the light of submissions as aforesaid, from the report, complainant, injured has stated that on 20.12.2016 at the midnight, while he was in the house, in response to call given to him, when he came out of the house at 12:15 a.m., both applicants along with co-accused Akshay and Roshan were found present in front of his house when Roshan committed assaulted by sharp weapon on his abdomen which struck on the hand of complainant. It is further stated that he, therefore, ran inside the house, however was called out by both applicants and two co-accused.

So far as involvement of applicants is concerned, it reveals from the report that both applicants attempted to commit assault by knife on the abdomen and neck of complainant. However, according to the report, complainant is not injured due to any such assault. However, it is revealed that he sustained

injuries on his thigh due to assault committed by co-accused Akshay who had attempted to cause injuries on his abdomen, however it struck on his thigh.

Considering contents of report, thus it is noted that complainant did not sustain any injury at the hands of applicants. As per the medical report, complainant is certified to have sustained four incised wounds which are on his wrist, forearms, and thigh and, stated to be simple injuries and in view of contents of report as aforesaid, can be attributed to co-accused. Admittedly, there is no recovery of any incriminating articles from applicants.

Perusal of statement of Raju established presence of applicant Nishant Patil on the spot as according to said witness, he has arrived on the spot after the assault on hearing shouts, while according to statement of Sanjay, names of co-accused Akshay and Roshan are stated he has stated hands of two other persons along with him. Admittedly, no names of applicants are mentioned in this statement.

In view of facts as aforesaid, though investigation is in progress, application is allowed, as per the order below:

Applicants shall be released on bail on their executing P.R. Bond in the sum of Rs.25,000/- each with one surety each in the like amount.

While on bail, applicants shall mark their

presence with Lakadganj Police Station, Nagpur as and when called, till filing of the charge-sheet and thereafter quarterly on the first day of each such month, pending Trial in the event of filing of charge-sheet, against him.

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 :- 3/3/2017