

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

CRIMINAL APPLICATION (BA) NO.244 OF 2017

(Nilesh s/o Bhagwan Hiwrale ..vs.. State of Maharashtra, through PI, PS Ramnagar, District Chandarpur)

WITH

CRIMINAL APPLICATION (BA) NO.245 OF 2017

(Vyankatesh s/o Chanda Boda and others ..vs.. State of Maharashtra, through PI, PS Ramnagar, District Chandarpur)

WITH

CRIMINAL APPLICATION (BA) NO.246 OF 2017

(Vivek s/o Shri Narayan Barsinge ..vs.. State of Maharashtra, through PI, PS Ramnagar, District Chandarpur)

WITH

CRIMINAL APPLICATION (BA) NO.247 OF 2017

(Shailesh s/o Ashok Kelzarkar ..vs.. State of Maharashtra, through PI, PS Ramnagar, District Chandarpur)

WITH

CRIMINAL APPLICATION (BA) NO.252 OF 2017

(Manish s/o Suresh Ranikundliya ..vs.. State of Maharashtra, through PI, PS Ramnagar, District Chandarpur)

WITH

CRIMINAL APPLICATION (BA) NO.259 OF 2017

(Swapnil s/o Chandrakant Kashikar ..vs.. State of Maharashtra, through PI, PS Ramnagar, District Chandarpur)

WITH

CRIMINAL APPLICATION (BA) NO.283 OF 2017

(Saurabh s/o Chandu Gayakwad ..vs.. State of Maharashtra, through PI, PS Ramnagar, District Chandarpur)

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

Court's or Judge's orders

Shri R.M. Tahaliyani, Advocate for the applicants in BA Nos.244 to 247,
259 & 283 of 2017,
Shri V.N. Morande, Advocate for the applicant in BA No.252 of 2017,
Shri V.P. Maldhure, Addl.P.P. for the non-applicant/State.

CORAM : S.B. SHUKRE, J.

DATED : 12-04-2017

All these applications are being disposed of by the
common order as they arise out of the same crime being
Crime No.315/2017 registered against these applicants

at Police Station Ramnagar, Chandrapur for the offences punishable under Sections 395, 397, 353, 333, 341, 363, 506 of the Indian Penal Code alongwith Section 3 of the Prevention of Damage to Public Property Act on the allegation that these applicants together with other persons assembled at the spot situated in forest near Chichpalli, prevented officers of the forest department, being the public servants, from performing their public duties and kidnapped them and subjected them to beating as well as putting them under fear of injury, snatched away from them cash amount of Rs.5,300/- and mobile phones.

On going through the case diary, particularly the First Information Report, it is seen that while specific role has been attributed to one of the applicants, Swapnil Kashikar (Criminal Application (BA) No.259/2017), no specific role has been attributed to the remaining applicants. Of course, it is alleged that the remaining applicants had shared a common intention with the main accused Swapnil Kashikar. But, while considering the bail applications, it would also have to be seen by this Court as to whether any overt act have been performed by any of the co-accused from the view point of examining the angle of commission of the offence in an aggravated form. If it is noticed that the co-accused were merely present and did not do anything to escalate the situation, at least for exercise of discretion regarding

grant or otherwise of the bail, such a factor would be required to be considered by the Court. Examining the present matter from this angle, I find that, at least, at this stage, no specific role has been attributed to these applicants barring Swapnil Kashikar and therefore, even though they were present at the spot of the incident at the relevant time, so far as their claim for seeking release on bail is concerned, would acquire a better position than the person who has performed specific role. Then of course the other parameters are also required to be considered.

These parameters would relate to the seriousness of the crime, the possibility of the applicants evading course of justice, the possibility of applicants influencing the prosecution witnesses, impact of the alleged crime on the society, the need for making further investigation, custodial interrogation and so on or so forth. I would say that with regard to these other parameters, at this stage, all of them go in favour of the applicants except the applicant Swapnil Kashikar. It does not appear probable, from the facts and circumstances of the case, that these applicants are likely to misuse their liberty if released on bail in any manner either by making themselves unavailable for trial or by influencing the prosecution witnesses during the investigation. One of the offences alleged against these applicants though relates to assault on public servants, the seriousness of

such a crime could be seen to be reduced over a period of time when the applicants have remained in jail for a considerable time in jail. In this case, these applicants are detained in jail for a period of about two months since the commission of crime and such detention, I would say, *prima facie* would result in reducing the severity of the nature of such an offence. Therefore, this would also go in favour of these applicants.

In the circumstances, I am of the view that these applicants, barring Swapnil Kashikar, deserve to be released on bail and the application of Swapnil Kashikar deserves to be rejected.

Criminal Application (BA) No.259/2017 filed by Swapnil Kashikar stands rejected. Rest of the Criminal Application (BA) Nos.244/2017, 245/2017, 246/2017, 247/2017, 252/2017 and 283/2017 stand allowed and it is directed that the applicants in these applications shall be released on bail in Crime No.315/2017 registered with Police Station Ramnagar, Chandrapur for the offences punishable under Sections 395, 397, 353, 333, 506, 363, 341 of the Indian Penal Code alongwith Section 3 of the Prevention of Damage to Public Property Act on each of them furnishing P.R. Bond of Rs.50,000/- together with one solvent surety in the like sum, on the following conditions :

- (i) The applicants shall attend the police station on every Tuesday and Sunday between 4-00 p.m. and 6-00 p.m. till charge-sheet is filed.
- (ii) After filing of the charge-sheet, the applicants shall regularly attend the dates fixed by the Court and shall co-operate with the trial Court in expeditious disposal of the trial.
- (iii) The applicants shall not tamper with the prosecution evidence in any manner.
- (iv) It is made clear that the trial Court shall not be influenced by the observations made in this order.

JUDGE

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