

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

Criminal Application (BA) No. 574 of 2019

Atul Lahane and one Another

Vs.

State Through P.S. Balapur Dist. Akola

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

Court's or Judge's orders

Mr. K.H. Anandani, Advocate for applicant
Mr. M.J. Khan, APP for non-applicant.

CORAM : MANISH PITALE, J.

DATED : JULY 29, 2019

The applicants herein have approached this Court for grant of bail as they surrendered on 29/05/2019 and they have been behind bars since then in connection with FIR dated 08/02/2019. The said FIR was registered against the applicant and 14 other accused persons, all belonging to same family for offences punishable under sections 143, 147, 148, 149, 324, 307 and 427 of the Indian Penal Code.

2. The allegation against the applicants and other accused persons is that they formed an unlawful assembly and assaulted the complainant and his father, in pursuance of a dispute relating to possession of a property. It is alleged that the applicants and other accused persons assaulted the complainant and his

father in order to evict them from the property and that in the incident the father of the complainant suffered serious injuries including head injury in the form of fracture of part of his skull.

3. The learned counsel for the applicants invited attention of this Court to a complaint that was filed by his son before the Sub-Divisional Officer under section 145 of Criminal Procedure Code concerning the very same dispute. It was further pointed out that a counter FIR had been registered against the complainant and his father at the behest of offences including offence under section 324 of the Indian Penal code were registered. On this basis, it was contended that since the applicants had been behind bars from 29/05/2019 and the iron pipe allegedly used in the assault was already seized by the Police, the present application deserved to be allowed.

4. The learned APP opposed grant of relief in the present application by pointing out that the applicants were alleged to have used weapons in the assault and the serious head injury caused to the father of the complainant was relatable to the use of such weapon.

5. Having heard the learned counsel for the rival parties and upon perusal of the material brought on record, it appears that 16 members of the same

family have been shown as accused in the present case. It is a matter of record that 8 accused persons were granted bail and one is a juvenile accused. The applicants in the present case have been behind bars since 29/05/2019 and the knife and koyta allegedly used in the incident have also been seized by the police. In this situation, the only apprehension that remains is that since the rival parties have their properties adjacent to each other, if the applicants are released on bail, there could be a possibility of influencing the witnesses or otherwise disturbing the complainant and his father. The said apprehension can be taken care of by imposing suitable conditions while granting bail in the present case.

6. Accordingly, the present application is allowed and the applicants are directed to be released on bail in Crime No. 60/2019, registered at Police Station Balapur Dist. Akola on following conditions.

a) The applicants shall furnish PR bond of Rs.25,000/- each and surety in the like amount.

b) The applicants shall attend Police Station Balapur, District Akola twice in every month i.e. on 2nd and 4th Sunday between 10.00 am and 5.00 pm.

c) The applicants shall not enter jurisdiction of Police Station Balapur, District Akola, except for attending the Police Station as directed above.

d) The applicants shall not tamper with the evidence or influence the witnesses in any manner.

e) The applicants shall cooperate with the investigation.

7. Needless to say, violation of any of the above conditions may lead to cancellation of bail of the applicants. It is clarified that the observations made in the present order are limited to the question of grant of bail to the applicants.

JUDGE