

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

Criminal Application (ABA) No.278 of 2019
(Himmat Sitaram Shegokar and others. .vs. State of Maharashtra through
PSO PS Shegaon (City), Dist. Buldhana.)

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

Court's or Judge's orders.

Mr. H.M. Mohta, Advocate for Applicants.
 Mr. N.R. Rode, APP for Non-applicant/State.
 Mr. Mahesh Rai, Advocate for Complainant.

CORAM : Manish Pitale, J.
DATED : June 19, 2019.

The present application was filed by six applicants out of total nine accused persons in the present case. The learned counsel appearing for the applicants states that during the pendency of this application, applicant Nos. 4,5 and 6 were arrested and, therefore, insofar as the said applicants are concerned, the present application has been rendered infructuous. Therefore, this application is taken up for consideration only insofar as applicant Nos. 1,2 and 3 are concerned.

2. On 23.03.2019, an FIR was registered at the behest of the complainant, wherein she claimed that the applicants herein along with three other accused persons came to her house on 22.03.2019 at about 4.45 p.m. and they started asking for one of her sons Ashish claiming that he had taken away the daughter of accused no.1 Bharat. It was claimed that the said accused no.1 was armed with knife and when the elder

son of the complainant i.e. Akshay came out, he was assaulted by means of knife by the accused no.1 Bharat, resulting in serious injuries and death of the said Akshay. It was also claimed that another co-accused i.e. accused no.2 Mukinda assaulted the complainant with an iron pipe when she tried to intervene. The names of applicant nos. 1 to 3 have been stated in the oral report leading to the registration of FIR.

3. The learned counsel appearing for the said applicants submitted that although the names of the applicants are stated, no specific act is attributed to the said applicants. It is pointed out that the injuries suffered by the deceased by means of knife, even as per the FIR, were inflicted by accused No.1 Bharat and the injury suffered by the complainant by means of iron pipe was inflicted by accused no.2 Mukinda. No specific role was attributed to applicant Nos. 1 to 3.

4. It was pointed out that applicant no.1 Himmat Shegokar is a 52 years old person and that other two applicants i.e. applicant Nos. 2 and 3 are ladies and that they have been roped in by the complainant. On this basis, the learned counsel for the applicants submitted that the present application deserved to be allowed insofar as applicant Nos. 1 to 3 are concerned.

5. On the other hand, the learned APP opposed the application and submitted that the present incident concerned a serious offence of armed assault on the victim resulting in his death and that the presence of

the applicants was clearly established on the basis of the report lodged by the complainant. It was submitted that this was a case of an unlawful assembly of which the applicant Nos. 1 to 3 were part and that, therefore, they were equally liable for the injuries suffered by the victim as also the complainant. The learned counsel appearing for the complainant supported the submissions made by the learned APP.

6. Heard learned counsel for the rival parties and perused the material placed on record. A perusal of the FIR dated 23.03.2019 does show that the names of applicant Nos.1 to 3 have been specifically stated by the complainant while describing the incident, but no specific role has been attributed to the applicant Nos. 1 to 3. The entire emphasis in the complaint lodged by the complainant is on the manner in which the accused no.1 Bharat assaulted the victim by means of knife and accused no.2 Mukinda assaulted the complainant by an iron pipe. The record also shows that applicant Nos. 2 and 3 are ladies and that no specific role is attributed to them and further that the applicant no.1 is about 52 years of age and against him also no specific act is stated by the complainant.

7. Therefore, it becomes evident that the present application deserves to be allowed, although conditions need to be imposed on the applicant Nos. 1 to 3 while granting them anticipatory bail.

8. Hence, in the event applicant Nos. 1 to 3 are

arrested in Crime No. 138 of 2019 registered at Police Station Shegaon (City), district Buldhana, they shall be released on bail on furnishing P.R. bond of Rs.25,000/- (Rs. Twenty Five Thousand) each and a surety in the like amount. The applicants shall not enter the jurisdiction of Police Station Shegaon (City), till filing of the charge-sheet. They shall report to Police Station Khamgaon City once every week i.e. on Sunday between 10 a.m. and 5 p.m. till filing of the charge-sheet. The applicants shall cooperate with the investigation and shall not tamper with the evidence or influence the witnesses.

JUDGE

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