

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

Criminal Application (BA) No. 453 of 2019

Rameshwar Rathod

Vs.

State of Mah. Through P.S. Awdhutwadi Dist. Yavatmal

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

Court's or Judge's orders

Mr.M.N. Ali , Advocate for applicant.
Mr. N.R. Rode, APP for non-applicant.

CORAM : MANISH PITALE, J.

DATED : JULY 22, 2019

The applicant herein has approached this Court for grant of bail as he stood arrested on 23.9.2018, in connection with FIR registered on the same day against him and three other accused persons for offence under Section 307 R/w Section 34 of the Indian Penal Code and Section 4 read with 25 of the Arms Act, 1959.

2. The allegation levelled against the applicant and other accused persons is that they assaulted the son of the complainant due to some prior dispute. A perusal of the oral report leading to registration of FIR shows presence of the applicant at the time of the incident. The main act of assault appears to have been alleged against accused No.1 Devidas.

3. It is pointed out by the learned counsel for the applicant that the co-accused person against whom no specific role was attributed was granted bail by this Court by order dated 13.3.2019. It is also pointed that the only role attributed to the applicant surfaced for the first time when the statement of the victim was recorded on 25/10/2018 when it was alleged for the first time that the applicant had thrown chilly powder on the victim, thereby facilitating the assault. It was pointed that since co-accused person was already granted bail, applicant also deserved to be granted bail.

4. On the other hand, the learned APP opposed the grant of bail by submitting that the presence of the applicant was clearly mentioned in the report leading to registration of FIR and that since the victim was seriously injured in the incident, his statement could be recorded only on 25/10/2018.

5. Heard the learned counsel for the rival parties and perused the material brought on record. The incident is said to have taken place 23.9.2018 and perusal of oral report shows that while the name of the applicant is certainly mentioned, the major role is attributed to accused No.1 Devidas. In fact, when the police reached the place of incident, it was the accused No.1, who allegedly sought to dissuade the police from interfering, leading to firing by the police, resulting in

injury to the accused No.1.

6. It is also relevant that the statement of the victim recorded after about a month, attributed specific role to the applicant. It is also pointed out by the learned counsel for the applicant that statements of other witnesses were also recorded after considerable delay. The charge-sheet is already filed on 20/12/2018.

7. Since applicant has been behind bars for long period from 23.9.2018 and co-accused has already been granted bail, in view of the material that has come on record and the specific role that came to be attributed to the applicant after more than a month when the statement of the victim was recorded for the first time, this Court is of the opinion that the present application deserves to be allowed.

8. Accordingly, the application is allowed and the applicant is directed to be released on bail on the following conditions :

- a) The applicant shall furnish PR bond of 25,000/- and surety in the like amount.
- b) The applicant shall remain present before the Trial Court on each and every date of the proceedings.
- c) The applicant shall not tamper with the

evidence or influence the witnesses.

9. Needless to say that if there is any violation of any of the aforesaid conditions, bail granted to the applicant shall be liable to be set aside.

10. It is further made clear that the observations made in this order are limited to the question of grant of bail to the applicant.

11. The reply handed over by the learned APP is taken on record.

JUDGE