

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

Criminal Application (BA) No.427 of 2019
(Rama @ Rameshwar Suresh Gavhane .vs. The State of Maharashtra
through PSO Ansing Police Station,Ansing.)
with
Criminal Application (BA) No.455 of 2019
(Shubham Ankush Sonune .vs. The State of Maharashtra through PSO
Ansing Police Station,Ansing.)

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

Court's or Judge's orders.

Mr. S. Raisuddin, Advocate for Applicant in BA No. 427 of 2019
Mr. T.U. Tathod, Advocate for Applicant in BA No. 455 of 2019
Mr. M.J. Khan, APP for Non-applicant/State.

CORAM : Manish Pitale, J.
DATED : June 11, 2019.

The applicants herein are accused Nos. 3 and 8 in FIR registered on 15.01.2019 for having committed various offences including under Sections 302 and 324 of the I.P.C. The case of the prosecution is that the applicants herein were members of an unlawful assembly wherein they along with eight other accused persons assaulted the complainant and his brother leading to serious injuries to the complainant and the death of his brother.

2. A perusal of the report leading to registration of the FIR and other material shows that the allegation against the applicants was that they had assaulted the complainant and his deceased brother by means of fists and blows while the accused no.1 Sagar Gavhane had assaulted them by means of iron rod and stone. In the

report itself, the complainant has indicated that there is rivalry between the families of the complainant and the accused. In this backdrop, it is submitted on behalf of the applicants that since the role attributed to them is materially different from the role of accused no.1, they deserved to be enlarged on bail, particularly because one of the applicants is a student and both the applicants are young men. The applicants were arrested on 16.01.2019 and 23.01.2019 respectively and since then they have been behind bars.

3. The learned APP appearing on behalf of the non-applicant-State has submitted that even if the role allegedly played by the applicants was different from that of accused no.1 who had assaulted by means of an iron rod and stone, since the present case concerned offence committed by an unlawful assembly, the applicants could not take advantage of the role attributed to them even as per the report lodged by the complainant. It was submitted that in view of the rivalry between the complainant and the accused, there was every possibility of applicants influencing the witnesses if they were to be released on bail.

4. The material on record does indicate that amongst the ten accused persons, the applicants have been attributed the role of having assaulted the complainant and his brother by way of fists and blows. The narration of events by the complainant shows that initially the assault on the complainant was carried out by the accused no.1 during the course of a programme

that the accused and the complainant were attending. It is thereafter that further assault on the complainant and his brother took place near the tea shop of accused no.1. It is clear that the role of the applicants herein has been described, wherein it has been stated that while the accused no.1 assaulted the complainant and his brother by way of an iron rod and stone, the applicants had also hit the complainant and his brother with fists and blows. Although there is substance in the contention raised on behalf of the non-applicant/State by the learned APP that such distinction in the roles could be of no avail because the present case concerned offence committed by an unlawful assembly, but, at the same time the manner in which the genesis of the event has been described by the complainant, does show that initial assault was indeed carried out by the accused no.1 only and thereafter at the tea shop of accused no.1, the ten accused persons are said to have assaulted the complainant and his brother. The role attributed to the applicants in that context thus becomes relevant while considering their prayer for grant of bail. The death of the brother of the complainant has taken place due to the injuries suffered on his head which were allegedly inflicted by the accused no.1 by means of stone. Therefore, insofar as the role of the applicants is concerned, it becomes clear that even as per the complainant they appeared on the scene for the first time at the tea shop of accused no.1 and the only role attributed to them was that they had inflicted blows by fists and kicks.

5. These facts coupled with the fact that now the investigation is complete and the charge-sheet has been filed, as also the fact that the applicants are behind bars for about six months, does show that the applicants are entitled to grant of bail on specific conditions.

6. Accordingly, the applications are allowed and the applicants are directed to be released on bail on the following conditions:-

(a) The applicants shall furnish P.R. bond of Rs.50,000/- (Rs. Fifty Thousand) each and a surety of like amount.

(b) The applicants shall not enter the jurisdiction of Police Station Ansing, District Washim, during the pendency of the trial.

(c) The applicants shall attend proceedings before the trial Court on each and every date.

(d) The applicants shall not influence the witnesses in any manner.

7. In view of the submissions made by the learned APP to the effect that there would be possibility of the witnesses being influenced if the trial gets prolonged, the trial Court is directed to complete the trial as expeditiously as possible and in any case within a period of one year from today.

8. It is made clear that the observations made in this order are meant only for the purposes of considering the question of grant of bail to the applicants and it is made clear that if the applicants

violate any of the conditions stated above, bail granted to the applicants shall stand cancelled.

JUDGE

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