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

Criminal Application (BA) No. 511 of 2019

Roshan Gawai
Vs.
State Through P.S. Murtizapur (Rural) 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. S.I. Ali, Advocate for applicant.
Mr. A.D. Sonak, APP for non-applicant.

CORAM : MANISH PITALE, J.

DATED : JULY 17, 2019

The applicant herein has approached this Court for grant of bail as he stood arrested on 23/01/2019, in pursuance of FIR lodged on the same date against him and his brother (co-accused) for alleged offences under Sections 452, 307, 504 R/w 34 of the Indian Penal Code. The complainant is a lady residing in the neighbourhood and her grievance was that the accused persons had been having a long standing grudge with her and her husband and that on 22/01/2019, they had assaulted her husband by means of an axe and also iron rod causing grievous injuries to his head. On this basis, the said FIR was registered against the applicant and co-accused persons.

2. The learned counsel for the applicant has pointed out that the co-accused i.e. the brother of the

applicant was granted anticipatory bail by this Court by order dated 22/04/2019, wherein it was recorded that the weapons of assault i.e. iron rod and axe were already recovered by the police. Therefore, parity was pleaded as a ground by the learned counsel for the applicant. Apart from this, it was pointed out that the applicant stood arrested on 23/01/2019, when he had gone to the Police Station to lodge a complaint against the complainant and her husband with regard to the alleged assault launched by them. Although, a non-cognizable report was indeed registered against the complainant and her husband, at the same time, the applicant was arrested at the Police Station.

3. The attention of this Court is invited towards the fact that as against the complainant and her husband criminal cases have been registered in the years 2015, 2017 and 2018, apart from the aforesaid non-cognizable report registered in the year 2019. On this basis, it is claimed that there is enmity between the rival parties, which has lead to registration of present FIR and the applicant was arrested on 23/1/2019. It is also pointed out that investigation is complete and chargesheet is filed on 11/04/2019.

4. The learned APP has opposed the grant of bail in the present case by pointing out that apart from the complainant, there are other eye witnesses also. Statement of one of the eye witnesses is read out to

show that the applicant was directly involved in the present case and that he has caused grievous injuries to the injured victim by means of axe. It was also pointed out that weapons of offence and blood stained clothes were recovered from the applicant and his involvement is obvious. It is pointed out that if bail is granted to the applicant, there is a chance of his influencing the witnesses.

5. Having heard the learned counsel for the parties and on perusing the material placed on record, it appears that there is indeed enmity between the two rival parties. There are criminal cases registered against the applicant and her husband also from the year 2015 onwards. It appears that the parties are at loggerheads for considerable period of time and that the incident in question appears to have occurred, as a result of such enmity between them. It is also a fact that co-accused have been granted anticipatory bail by this Court, taking note of the fact that weapons of assault have been already recovered. It is also a matter of record that the investigation has been completed and chargesheet has been filed on 11/04/2019. The blood stained clothes and other material have also been recovered. Therefore, the only reason why the present application is being seriously opposed is that there is chance of the applicant influencing witnesses if he is enlarged on bail.

6. In view of the above, the present application is allowed and the applicant is directed to be released on bail on furnishing PR bond of Rs.25,000/- and surety in the like amount. The applicant shall not enter jurisdiction of Police Station Murtizapur Rural Dist. Akola during pendency of the trial. The applicant shall attend the proceedings before the Trial Court on each and every date. The applicant shall not influence the witnesses in any manner.

7. Needless to say that if the applicant violates any of the conditions stated above, the bail granted to him shall stand cancelled.

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

JUDGE

MP Deshpande