

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

Criminal Application (BA) No.526 of 2019
(Umadas @ Ballu s/o Anudas Lilahare .vs. State of Maharashtra through
PSO PS MIDC Nagpur)

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

Court's or Judge's orders.

Mr. R.H. Rawlani, Advocate for Applicant
Mr. A.D. Sonak, APP for Non-applicant/State.

CORAM : Manish Pitale, J.
DATED : July 25, 2019.

The applicant herein has approached this Court for grant of bail as he stood arrested on 01.01.2019 in connection with FIR registered on the same day for offences under Section 143, 147, 148, 149, 302 and 307 of the Indian Penal Code.

(2) There are five more accused persons in the present case of whom only one has been granted temporary bail on medical ground.

(3) The incident in question in the present case is said to have occurred in the intervening night of 31.12.2018 and 01.01.2019. As per the prosecution case, when the deceased and an injured eyewitness entered the courtyard of the house of accused No.2 Sachin Kale, during new year celebration, they were sought to be evicted from there and in that process there was scuffle that occurred between accused persons on the one hand and the deceased and injured eyewitness on the other.

(4) The learned Counsel for the applicant has invited attention of this Court to the material on record, including

statement of the injured eyewitness. It is submitted that a perusal of the same would show that there is no specific allegation against the applicant as regards use of any weapon and general allegations have been made regarding holding of the deceased at the time of the incident and assault by fists and kicks. On this basis, the learned counsel for the applicant has emphasized that the applicant deserves to be granted bail.

(5) The learned APP has opposed the present application, pointing out that the offences are serious one and that there are eyewitnesses including the sister of the deceased who has stated that even the applicant has used a brick to assault the deceased.

(6) Having perused the material on record, it appears that the incident has occurred at the time of new year celebration. A perusal of the statement of the injured eyewitness does indicate that, it was the deceased and the injured eyewitness who had entered into the courtyard of the house of co-accused No.2 Sachin Kale, where various persons including girls were dancing and celebrating. In this situation, when the deceased and eyewitness were sought to be evicted from the premises, a scuffle ensued leading to injuries to the victim party. The material on record indicates that the deceased as well as the injured eyewitness had consumed alcohol. It appears that the genesis of the incident was the irritation felt by the accused party when the deceased and the injured eyewitness entered the premises and sought to celebrate alongwith the accused persons and their friends including girls. It appears that the scuffle that ensued resulted in injuries to the victims. A perusal of the material on record, does not indicate use of

any specific weapon by the applicant herein and it has been stated that the assault was carried out by the applicant by means of fists and kicks and at another place it is stated that he was holding one of the victims.

(7) Considering the back-ground in which the incident took place and the fact that there is no specific allegation against the applicant as regards use of any weapon, coupled with the fact that there is material to indicate that the victims themselves had reached the place of the incident in inebriated state, this Court is of the opinion that the present application can be granted.

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

(a) The applicant shall furnish P.R. bond of Rs.25000/- (Rupees Twenty Five Thousand only) and a surety in the like amount.

(b) The applicant shall attend the proceeding before the trial Court on each and every date.

(c) The applicant shall not influence witnesses.

(9) Needless to say that violation of any of the conditions noted above, may lead to cancellation of bail granted to the applicant. It is clarified that the observations made in this order are limited to the question of grant of bail to the applicant.

JUDGE