

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

Criminal Application (ABA) No. 397 of 2019

Ramkisan Gangwane
Vs.
State Through P.S. Asegaon Dist. Washim

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

Court's or Judge's orders

Mr.S.D. Chande, Advocate for applicant.
Mr.V.P. Maldhure, APP for non-applicant.

CORAM : MANISH PITALE, J.

DATED : JULY 17, 2019

The applicant herein has approached this Court apprehending arrest in connection with FIR dated 01/06/2019, registered against him and three other accused persons for the offences punishable under Sections 326, 325, 324, 323, 504, 506 R/w 34 of the Indian Penal Code.

2. The incident in question is said to have taken place on 28/05/2019, wherein it is alleged that the applicant herein picked up a fight with the complainant and other persons of the family of the complainant and by using stick and axe assaulted the victim causing serious injuries to them.

3. The learned counsel for the applicant submits that the wife and son of the applicant had also

suffered injuries in the said incident and that a cross FIR dated 04/06/2019 was registered at the behest of the wife of the applicant regarding the very same incident. It is claimed that there was delay in registration of FIR on behalf of the wife of the applicant because of the injuries she has suffered. It is further pointed out that due to injuries suffered by the son of the applicant, he was suffering from loss of hearing in the right ear. It is alleged that the police deliberately did not include any non-bailable offences in the FIR registered on 04/06/2019, as a consequence of which the accused therein i.e. the complainant in the present case and his family members were granted bail. It is further pointed out that two co-accused persons in the present FIR were already enlarged on regular bail and the application for grant of bail of remaining accused persons is pending before this Court. From the material on record, it appears that FIR registered against the applicant and his co-accused persons was registered after a delay of about three days from the date of the incident.

4. The learned APP has pointed out that the said delay is sufficiently explained in the report leading to registration of FIR, because it is stated that after the injured victim complainant recovered from the injuries that he approached the police for registration of FIR. It is pointed out that serious injuries were suffered on the head by the complainant himself and that the active

role of the applicant herein was evident. It was submitted that in this situation, the present application deserved to be dismissed.

5. The material on record does show that there are cross FIRs regarding the very same incident. The dispute between the parties seems to have occurred as they are neighbours. The use of sticks by both the parties is alleged and additionally it is alleged that the applicant has used an axe while assaulting the victim. As noted above, the complainant herein and other accused persons along with him in FIR subsequently registered on 04/06/2019, have been released on bail from the police station itself. Two of the co-accused persons with the applicant have been granted regular bail and the only reason why the present application is being opposed is that there is specific allegation against the applicant regarding the use of an axe for assaulting the victim. The material presently on record does indicate that the victim suffered certain injuries, but, it appears that if the applicant is granted anticipatory bail on stringent conditions, the apprehension of the non-applicant State would be addressed. It appears that the incident in the present case occurred due to the dispute between the neighbours and anxiety of the non-applicant State that the applicant will misuse the liberty by influencing the witnesses can be taken care of by imposing appropriate conditions. This is particularly so when the rival party has been already

granted regular bail. In fact, it would be necessary to ensure that the applicant does not visit the neighbourhood where the complainant and his family members reside, so that no further untoward incident occurs. In view of the above, the present application is allowed and the applicant is granted anticipatory bail on the following conditions :

- a) In the event, the applicant is arrested in Crime No. 117 of 2019, registered at Police Station Asegaon Dist. Washim, he shall be released on furnishing PR bond of Rs.25,000/- and surety of the like amount.
- b) He shall not enter village Asegaon Tah. and district Washim, except for attending Police Station.
- c) He shall attend Police Station Asegaon Dist. Washim every week i.e. on Sunday between 10:00 AM to 5:00 PM.
- d) The applicant shall appear before the Investigating Officer on **22nd July, 2019** and on such further occasions as may be directed by the Investigating Officer.
- e) The applicant shall not tamper with the evidence or influence the witnesses.

6. Since the applicant has been directed not to enter village Asegaon Tah. & Dist. Washim, he shall immediately report to the Investigating Officer about his place of residence and change if any therein in future.

7. Needless to say that in case of violation of any of the conditions imposed by this Court, the bail granted to the applicant shall stand cancelled.

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

JUDGE