

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

CRIMINAL APPLICATION (BA) NO.619/2019

Dheeraj s/o Mulchand Binekar .vs. State of Maharashtra

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

Court's or Judge's orders.

Mr. C. R. Thakur, Advocate for applicant.
Mr. S. S. Doifode, A.P.P. for non applicant-State.

CORAM : V. M. DESHPANDE, J.

DATED : AUGUST 20, 2019

Criminal Application No.1130/2019

This is an application filed by complainant to assist the prosecution.

Heard learned counsel for the parties.

For the reasons stated in the application, it is allowed. Complainant is allowed to assist the prosecution.

The application is disposed of.

Criminal Application (BA) No.619/2019

Heard Mr. Thakur, learned counsel for applicant, Mr. Doifode, learned A.P.P. for non applicant-State and Mr.Sahu, learned counsel assisting the prosecution.

Incident in question has occurred on 16.03.2019. Applicant was arrested on 17.03.2019 and since then he is in jail. Investigating agency has completed entire investigation and filed charge-sheet before the Court of law. Copy of entire charge-sheet is placed on record along with this application.

When crime was registered, statement of Pawan Falke (injured) was recorded at Rahate Hospital, Nagpur on 17.03.2019. The statement would show that on 06.03.2019, at about 11.15, when Pawan along with his friends were chit-chatting, co-accused Golu came from behind and assaulted on his neck and head. At that time, present applicant was in his company.

Charge-sheet would reveal that during the course of investigation, investigating agency has recorded supplementary statement of injured on 21.05.2019. A perusal of the said would also show that the overt act of assault was attributed against co-accused Golu and allegation against present applicant is that he was present along with Golu. Statements of eye witnesses are also recorded. They are Anup, Yogesh, Rajesh, Naresh, Shivkumar and Ajay. Statements of these eye witnesses would show that actual assault was made by co-accused Hemant alias Golu, who is brother of present applicant. Though eye witnesses stated presence of present applicant on spot, they did not attribute any overt act against him. Even the weapon, which was used is recovered at the behest of co-accused Hemant, who is also in jail.

The application is opposed by learned A.P.P., primarily on the ground that one offence is registered against present applicant under Section 324 of the Indian Penal Code.

Registration of a crime previously may be one of the consideration, however, that cannot be the sole criterion

to reject the application of bail especially when no specific role is attributed against the present applicant.

In that view of the matter, I pass the following order.

ORDER

- (i) The application is allowed.
- (ii) Applicant-Dheeraj s/o Mulchand Binekar be released on bail, on he executing P.R. Bond in the sum of Rs.10,000/- with one solvent surety in the like amount.
- (iii) The applicant shall not enter within the territorial jurisdiction of Police Station, Pachpaoli, Nagpur.
- (iv) The applicant is directed to furnish his residential address before the learned trial Court, before whom the bail bonds will be executed. The trial Court shall issue necessary directions to the applicant to attend the nearest police station of the locality where the applicant will be residing, between 03.00 to 05.00 p.m. on third Saturday of every month until the trial is over.
- (v) The applicant shall not extend any type of threats to the witnesses.

The application is disposed of.

JUDGE