

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

CRIMINAL APPLICATION (BA) No. 623 OF 2019

Rajesh Sakharam Bande

..VS..

**State of Maharashtra, Through PSO PS Shirpur, Tah.Malegaon,
Dist.Washim**

with

CRIMINAL APPLICATION (BA) No. 634 OF 2019

Chandraprakash @ Prakash Nivruti Ambhore

.. VS ..

**State of Maharashtra, Through PSO PS. Shirpur, Tah. Malegaon,
Dist.Washim**

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

Court's or Judge's orders

Shri. R. S. Kurhekar, & Shri. S.V.Sirpurkar Advocates for the
applicants.

Shri. Khan and Shri.H.R.Dhumale, APP for the non-applicant State.

CORAM : Manish Pitale J

DATED : 08.08.2019

These two applications arise out of the same incident and the applicants herein have approached this Court for grant of bail as they stood arrested on 06.06.2019 in connection with First Information Report (FIR) dated 06.02.2019 registered against them and other accused persons for offences under Sections 307, 324, 452, 143, 147, 148, 149, 109 and 114 of the Indian Penal Code.

2. It is claimed by the complainant that on the date of incident i.e. 06.02.2019, the applicants and other accused persons picked up a quarrel with the complainant in connection with water that was overflowing from his water filter plant and during the course of the quarrel, they allegedly assaulted the complainant with iron rods and sticks. In the FIR there are five persons named and then it is further stated that there are about 10 to 15 unknown persons who are not named as accused persons, who also carried out the assault. The learned counsel for the applicants point out before this Court that three of the accused persons, one of whom was named in the FIR and two who were not named in the FIR, were granted anticipatory bail by this Court.

3. It is further submitted that after the applications for anticipatory bail filed by the applicants were rejected by this Court and such orders were confirmed by the Supreme Court, the applicants surrendered on 06.06.2019.

4. It is further submitted that since the applicants have been behind bars from 06.06.2019 and in the case of applicant Rajesh Sakharam Bande, he was not even named in the FIR, relief as sought on behalf of the applicant deserves to be granted. As regards the applicant Chandraprakash Ambhore, it is submitted that the main role attributed to him was that he first asked the complainant to do something about the overflow of

water from the water filter and that the said applicant did not have any role to play in the actual assault on the complainant.

5. The learned APP Mr. Khan and Mr. Dhumale by appearing in these applications, have opposed grant of bail on the ground that although applicant Rajesh Bande was not specifically named in the oral report, the complainant had stated that the brother in law of the said accused Vijay Ambhore had also assaulted the complainant. It is pointed out that the applicant Rajesh Bande is in fact the brother in law of the said accused Vijay Ambhore.

6. It is further submitted that as regards Chandraprakash Ambhore is concerned, in the oral report the complainant has attributed specific role of having assaulted the complainant by means of iron rod.

7. Heard learned counsel for the rival parties and perused the material on record. It is found that after the applicant surrendered on 06.06.2019, the weapons of assault have been recovered at their behest and even the clothes of the Chandrapraksh Ambhore have been recovered. It appears that the incident occurred due to a quarrel that was initiated due to grievance of the applicants that overflow of the water from the water filter plant of the complainant was causing nuisance. In the light of the fact that recovery has been made, the present application can be allowed subject to imposition

of stringent conditions on the applicants.

8. In view of the above, the present applications are allowed. The applicants are directed to be released on bail in Crime No.32/2019 registered at Police Station Shirpur, Dist.Washim on the following conditions :-

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

B) The applicants shall not enter the jurisdiction of Police Station Shirpur, District Washim till filing of charge-sheet.

C) The applicant in Criminal Application (BA) No.623 of 2019 i.e. Rajesh Sakharam Bande shall report to Police Station Janefal, District Washim, once a week i.e. on every Sunday between 10.00 a.m. and 5.00 p.m. till filing of charge-sheet.

D) The applicant in Criminal Application (BA) No.634 of 2019 Chandraprakash Ambhore shall report to Police Station Malegaon, District Washim, once a week i.e. on every Sunday between 10.00 a.m. and 5.00 p.m. till filing of charge-sheet.

E) The applicants shall cooperate with the investigation and they shall neither tamper with the evidence nor influence the witnesses.

9. Needless to say, violation of any of the aforesaid conditions by the applicants, may lead to cancellation of bail granted to them. It is made clear that the observations made in the present applications are limited to the question of grant of bail to the applicants.

JUDGE

KOLHE