

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

Criminal Application (BA) No.642 of 2019
(Mohammad Mudassir s/o Mohammad Zahir and another .vs. State of
Maharashtra through PSO PS Barshitakli, Dist. Akola.)

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

Court's or Judge's orders.

Mr. Sk. S. Jagirdar, Advocate for Applicants
Mr. J.Y. Ghurde, APP for Non-applicant/State.

CORAM : Manish Pitale, J.
DATED : August 09, 2019.

The applicants have approached this Court seeking bail as they stood arrested on 01.07.2019 in connection with first information report (FIR) dated 16.07.2018, whereby offences under Sections 307, 504, 506 read with 34 of the Indian Penal Code and Sections 4/25 of the Arms Act, were registered against them and two other accused persons.

2. The learned counsel for the applicants submits that there is also a cross FIR registered on the same day wherein the complainant is the uncle of the applicants herein and it is further submitted that there is a civil dispute that is pending between the rival parties. It is pointed out that the father of the applicants had filed a suit which was decreed in his favour and it is during execution of the decree that quarrel has occurred giving rise to the said incident. It is also pointed out that during the said incident, the applicant no.1 himself suffered injuries on his face and head for which he was required to take treatment in the Government Hospital

at Akola. In the cross FIR registered at the behest of the uncle of the applicants, the accused persons including the complainant herein, were arrested after a period of about nine months and they were immediately granted bail by the Court in ten days. On this basis, relief is sought in the present case.

3. The learned APP has opposed grant of relief in the present case, pointing out that the applicants have remained absconding for about an year and they were eventually arrested on 01.07.2019. It is submitted that even for this reason, the charge-sheet in the present case could not be filed. It is further pointed out that the role attributed to the applicant no.1 is that he had assaulted the victim by means of a sword and that the applicant no.2 had used an iron pipe in the incident.

4. The material on record shows that the genesis of the incident appears to be the civil dispute between the parties. In the process of execution of a decree, it appears that the quarrel took place between the parties in which there was violence and the material presently on the record shows that the members of both the parties suffered injuries. Insofar as the applicant no.1 is concerned, documents pertaining to the treatment and discharge from the hospital shows that the injuries were suffered by the applicant no.1 due to which he was to undergo surgery. There is also no dispute about the fact that there is cross FIR registered against the complainant and the other accused persons pertaining to the very same incident. It has also come on record that two co-accused persons including the father of the applicant no.1 have been released on bail. The father of

applicant no.1 was released on bail by an order passed by this Court, recording that no further recoveries were to be made in the present case. It has also come on record that the alleged iron pipe and sword used during the course of the incident have been already recovered at the behest of the father of the applicant no.1.

5. In these circumstances, it appears that since the incident arose out of long standing dispute between the parties and violence was inflicted by the members of the rival parties on each other, and when accused persons in the cross FIR have been granted bail, the applicants in the present case deserve to be released on bail, but upon imposition of stringent conditions.

6. In view of the above, the present application is allowed and the applicants are directed to be released on bail in Crime No. 271 of 2018 registered at Police Station Barshitakli, district Akola, on the following conditions:-

- a) The applicants shall furnish P.R. Bond of Rs.25,000/- (Rs. Twenty Five Thousand) each and a surety in the like amount.
- b) The applicants shall attend Police Station Barshitakli, twice a month i.e. on second and fourth Sunday of the month between 10 a.m. and 5 p.m. till filing of the charge-sheet.
- c) The applicants shall not enter village Barshitakli, during the pendency of the trial.
- d) The applicants shall attend the proceedings before the trial Court on each and every date.
- e) The applicants shall not tamper with the evidence or influence witnesses.

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

JUDGE

halwai