

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

CRIMINAL APPLICATION (ABA) NO.646 OF 2019

Joseph s/o Eugene Norbert .Vs. State of Maharashtra, PSO, P.S.
Yashodharanagar, Dist. Nagpur.

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

Mr. V. S. Mishra, Advocate for applicant.
Mr. N.R. Rode, A.P.P for non applicant-State.

CORAM : V. M. DESHPANDE, J.
DATED : OCTOBER 14, 2019

Heard Mr. Mishra, learned counsel for applicant and Mr. Rode, learned Additional Public Prosecutor for non-applicant/State. Also perused the reply filed on behalf of the State.

Applicant is apprehending his arrest in connection with Crime No.502/2019 registered with Police Station, Yashodhara nagar, Nagpur for an offence punishable under Sections 395, 397, 504 of the Indian Penal Code.

The first information report is lodged by Ramesh Mithailal Yadav. As per reply filed on behalf of the prosecuting agency opposing the application for anticipatory bail, complainant and his friends were affixing banners of Garba Classes near Kamptee Naka no.2. At that time one vehicle having registration no. MH-40/AC-0250 approached there. The persons who were sitting in the car were playing music loudly. Therefore, verbal altercation took place in between them and the complainant and his friends.

According to the complainant, a person who was sitting the said car was Amar Gomekar. After the incident of verbal altercation passed away, at Bhilgaon Gate when the complainant was there at that time the persons in the car along with others came there armed with iron rods and wooden sticks. That time Amar Gomekar and others assaulted on one Rajesh Nagrale and also snatched his wallet and gold chain.

The reply would show that the injured has suffered fracture. The reply would show that four other persons were arrested including Sharad Gomekar. Out of them, Himanshu Yadav and Dipesh Tripude were released on regular bail by the trial Court, whereas Sharad Gomekar and Shekar Ukey are still in jail is the statement made by the learned Additional Public Prosecutor. The reply also shows that the weapons used are already recovered at the behest of arrested accused-Sharad Gomekar. Reply would show that there are criminal antecedence against other persons. However, reply specifically states that applicant's past record is absolutely clean. Accused persons who were arrested are already identified by the prosecution witnesses as the assailants. According to the reply, Tarun alias Bablu Jain and Amar Gomekar are still absconding. To a pointed query, learned Additional Public Prosecutor Mr. Rode, on the basis of investigation papers with him, has stated that no specific role is attributed against the present applicant except that he was part of the group.

The applicant was protected by this Court on 25.09.2019 with a condition that he shall attend police

station from 28.09.2019 to 04.10.2019. According to learned Additional Public Prosecutor on the basis of the instructions received from the investigating officer makes a statement that accordingly the applicant did attend the police station. His statement is also recorded and his Activa vehicle is also seized by the investigating officer.

Looking to the fact no role is attributed against the present applicant that he participated in the assault or any other overt act, in my view, the applicant who is a student, need not be in custodial presence of the investigating agency. Consequently, I pass following order.

ORDER

- (i) The application is allowed.
- (ii) In the event of arrest in connection with Crime No.502/2019 registered with Police Station, Yashodhara nagar, Nagpur for an offence punishable under Sections 395, 397, 504 of the Indian Penal Code, applicant - Joseph s/o Eugene Norbert, be released on bail on he executing P.R. Bond in the sum of Rs.25,000/- with one solvent surety in the like amount.
- (iii) Applicant is directed to attend Police Station, Yashodhara nagar, Nagpur twice a week i.e. on every Saturday and Sunday from 02:00 p.m. to 05:00 p.m. and shall be with the investigating officer till filing of the charge-sheet.

The application is disposed of.

JUDGE