

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

CRIMINAL APPLICATION (BA) NO.927/2019

Niraj s/o Guraldas Wadhwani .vs. State of Maharashtra through PSO P.S.
Gondia (City), Dist. Gondia.

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

Court's or Judge's orders.

Mr. R. M. Daga, Advocate for applicant.

Mr. N. R. Rode, A.P.P. for non applicant-State.

CORAM : V. M. DESHPANDE, J.

DATED : OCTOBER 17, 2019

Heard Mr. Daga, learned counsel for applicant and Mr. Rode, learned A.P.P. for non applicant-State. Also perused the charge-sheet placed on record.

The applicant is arrested in connection with Crime No.74/2019 registered with Police Station Gondia (City), District Gondia for an offence punishable under Sections 307, 341, 323, 504, 506 read with Section 34 of the Indian Penal Code and Section 3 read with Section 27 and Section 4 read with Section 25 of the Indian Arms Act.

First Information Report is lodged by nephew of the injured. Name of first informant is Pankaj Murli Yadav whereas name of the injured is Shiv Durgaprasad Yadav. The report would show that there was a previous dispute between injured and the present applicant and therefore the injured gave 2-3 slaps to the present applicant previously.

Statement of injured would show that on 15.02.2019, at 08:00 O'clock in night when he was proceeding to his house on his moped, another moped came and a person, who has put muffler on his face, assaulted on his head by butt of pistol and he fell down. That time, another person came and he tried to assault on his head by sickle. However, the said could be saved by him though one injury was there on his head. That time, he noticed that the said person is co-accused Pawan. Thereafter, first person came. He took out sickle from the hand of Pawan and assaulted on the injured. That time, muffler, which was wrapped on his face, fell down and the injured noticed the identity of the said person as the present applicant.

Spot panchanama would show that one pistol was seized from the spot. Medico-Legal Certificate would show that four contusions and lacerated wounds were found on the person of Shiv and out of those, three were on his head. Identity of present applicant is also seen in the CCTV footage and in that behalf there are statements of the prosecution witnesses.

Charge-sheet also contains further report of the injured Shiv dated 01.03.2019 which shows that when the applicant was brought to Court for extension of his Magisterial Custody Remand, that time he extended threat to injured and therefore said was reported, resulting into registration of NC No.124/2019 for an offence punishable under Section 506 of the Indian Penal Code.

The injured Shiv is specifically taking name of the present applicant. Applicant is having old enmity with injured Shiv. Even applicant is extending threats though he is in judicial custody.

In this situation, in my view, it will not be proper to release the applicant on bail though co-accused is released on bail by this Court. The application is, therefore, rejected.

JUDGE

kahale