

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

CRIMINAL APPLICATION (BA) NO.954/2019

Mukesh Vivek Sankade .vs. State of Maharashtra through PSO P.S. Tahsil, Nagpur

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

Court's or Judge's orders.

Mr. G. B. Hemke, Advocate for applicant.
Mr. J. Y. Ghurde, A.P.P. for non applicant-State.

CORAM : V. M. DESHPANDE, J.
DATED : NOVEMBER 4, 2019

Heard Mr. Hemke, learned counsel for applicant
and Mr. Ghurde, learned A.P.P. for non applicant-State.
Also perused the reply and investigation papers.

The learned A.P.P. primarily opposed the bail
application on the ground that investigation is in progress.
The investigation papers would show that it is over and only
charge-sheet is to be filed. Even that is the submission of
learned A.P.P., on instructions from investigating officer who
is personally present in the Court.

Applicant is arrested on 05.09.2019 in connection
with Crime No.471/2019 registered with Police Station
Tahsil, Nagpur, for an offence punishable under Sections
307, 143, 145, 147, 148, 149, 427 and 294 of the Indian
Penal Code and Section 135 of the Maharashtra Police Act.
The applicant is co-accused along with seven others. The
FIR is lodged by Pankaj. He is brother of injured Naresh.
Both these brothers run Chinese stalls on different carts on
the spot of incident. As per the FIR, on 01.09.2019, an

altercation took place in between injured Naresh and two other accused persons on account of parking of vehicle. As per the report, thereafter, those persons made phone calls to other accused persons and 5-6 persons came on the spot and one of them assaulted on the injured. As per injury certificate, Naresh has received injury on his abdomen admeasuring 5 cm and midline 3 x 2 cm. Naresh was admitted in Indira Gandhi Government Medical College on 01.09.2019 and stood discharged as an indoor patient on 08.09.2019. According to reply, at the behest of the present applicant, the weapon i.e. knife is recovered. The reply shows that during investigation, test identification parade was held. However, in the said test identification parade, neither the injured nor first informant has identified the applicant as assailant. Though, reply shows that CCTV footage shows presence of applicant, the same does not show that applicant was giving any knife blow, is the submission of the learned A.P.P., on the basis of instructions from the investigating officer. The incident has occurred on public place. Therefore, only for presence of applicant on a public place in the CCTV footage, applicant need not to be detained further in jail.

Since investigation is over and applicant is not identified by injured or the first informant, in my view, the applicant can be released on bail on imposing some stringent conditions. Hence, I pass the following order.

ORDER

- (i) The application is allowed.
- (ii) Applicant-Mukesh Vivek Sankade, be released on bail in connection with Crime No. 471/2019 registered with Police Station Tahsil, Nagpur, for an offence punishable under Sections 307, 143, 145, 147, 149, 427 and 294 of the Indian Penal Code and Section 135 of the Maharashtra Police Act, on he executing P.R. Bond in the sum of Rs.25,000/- with one solvent surety in the like amount.
- (ii) Applicant shall attend Police Station Tahsil, Nagpur twice a week i.e. on every Sunday and Tuesday and shall be in the Police Station between 02:00 p.m. to 05:00 p.m., till the trial is over.
- (iii) The observations made in this order are purely prima facie in nature and are made only for the purpose of deciding the present application for grant of bail. The learned trial Judge who will be conducting the trial, shall not get influenced by any of the observations made above.

The application is disposed of.

JUDGE