

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

CRIMINAL APPLICATION (ABA) NO. 700 OF 2019

Akshay s/o Rajaram Jadhav and another .Vs. State of Maharashtra,through
P.S.O, P.S. Patur, Tah. Patur, Dist. Akola.

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. Tahaliyani, Advocate for applicants.
Mr. N.B. Jawade, A.P.P. for non applicant- State.

CORAM : V. M. DESHPANDE, J.
DATED : NOVEMBER 25, 2019

Heard Mr. Tahaliyani, learned counsel for applicants and Mr.Jawade, learned Additional Public Prosecutor for non applicant-State. Also perused reply filed on behalf of prosecution and the investigation papers.

Applicants are apprehending their arrest in connection with Crime No.300/2019 registered with Police Station, Patur, Dist. Akola for an offence punishable under Sections 326 read with Section 34 of the Indian Penal Code.

Submission of learned counsel for applicants is that they are falsely implicated in the crime. In fact, they were assaulted by complainant and his associate and therefore they lodged a report against the first informant in Crime No.300/2019 and others on 15.08.2019 on the basis of that Crime No. 285/2019 was registered with Police Station, Patur for an offence punishable under Sections 323, 324, 504, 506 read with Section 34 of the Indian Penal Code, therefore applicants be released on anticipatory bail.

From the investigation papers and from the detailed reply filed on behalf of prosecution in the incident

dated 14.08.2019 at one *Matoshri Dhaba* , two reports were lodged with the police station. Present applicant no.1-Akshay lodged report dated 15.08.2019 resulting into registration of offence i.e. Crime No.285/2019.

On 01.09.2019, Ashish Yadav lodged a report with police station against applicants and two other co-accused on the basis of which a crime is registered as Crime No.300/2019 for the offence punishable under Section 326 read with Section 34 of the Indian Penal Code and in this offence applicants are claiming anticipatory bail.

Though the incident has occurred on 14.08.2019 Crime No.300/2019 is lodged on 01.09.2019. However perusal of first information report show that explanation is offered by the complainant as to why the report is lodged belatedly. At this stage there is no room to disbelieve the said statement. Therefore, belated lodging of first information report is not helpful to present applicants. From statements of Ashish who was injured and Akshay Thorat who was accompany with Santosh on account of old rivalry the present applicant no.1 assaulted on him by means of knife resulting into injury on umbilical and left lumber region. Ashish was required to be admitted at Ravankar Hospital. The injury certificate of Ashish is available in the investigation papers which shows that injured suffered injuries due to sharp edged weapon. Apart from incised wound, he also suffered blunt traumas. Though in the first information report it is stated and also in the statement of Akshay Thorat it has come that he was assaulted by

applicant no.2 by means of stick, no medical certificate of the said person is available on record.

Looking to the direct evidence that is available to on record against applicant no.1 in my view further investigation custodial presence of applicant no.1 is necessary. Consequently, I pass following order:

ORDER

- (i) The application is partly allowed.
- (ii) The application of applicant no.1 – Askhay Rajaram Jadhav is hereby rejected.
- (iii) The application of applicant no.2 – Amol Sukhdeo Jadhav is allowed.
- (iv) In the event of arrest in connection with Crime No.300/2019 registered with Police Station, Patur, Dist. Akola for an offence punishable under Sections 326 read with Section 34 of the Indian Penal Code, applicant no.2- Amol Sukhdeo Jadhav be released on bail on he executing PR. Bond in the sum of Rs.25,000/- with one solvent surety in the like amount.
- (iii) Applicant no.2 is directed to attend Police Station, Patur, Dist. Akola as and when called by the investigating officer. However, for that the investigating officer shall give clear cut two days prior written communication to the applicant, till filing of the charge-sheet.

The application is disposed of.

JUDGE