

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

CRIMINAL APPLICATION (BA) NO. 989 OF 2019

Ganesh s/o Shrikrushna Holkar and another .Vs. State of
Maharashtra,through P.S.O, P.S. Hivarkhed, Dist. Buldana.

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

Court's or Judge's orders.

Mr. K.P. Sadavarte, Advocate for applicants.
Mr. N.B. Jawade, A.P.P. for non applicant- State.
Mr. Ashwin Deshpande, Advocate for complainant.

CORAM : V. M. DESHPANDE, J.

DATED : NOVEMBER 21, 2019

CRIMINAL APPLICATION () NO. OF 2019

Mr. Ashwin Deshpande, learned counsel for complainant-Bebibai filed the present application under section 301 (1) of the Code of Criminal Procedure for assisting the prosecution.

For the reasons stated in the application, the application is allowed and disposed of.

Mr. Ashwin Deshpande, learned counsel is permitted to assist the prosecution.

CRIMINAL APPLICATION (BA) NO. 989 OF 2019

This is an application for regular bail.

The applicants are arrested in connection with Crime No.108/2019 registered with Police Station, Hivarkhed, Dist. Buldana for an offence punishable under

Sections 324, 323, 294, 506 read with Section 34 of the Indian Penal Code (for short “IPC”).

Heard Mr. Sadavarte, learned counsel for the applicants, Mr. Jawade, learned Additional Public Prosecutor for the non applicant-State and Mr. Deshpande, learned counsel assisting the prosecution.

For the incident dated 26.06.2019, two reports were lodged with the Police Station, Hivarkhed. The first report was lodged by applicant no.1 – Dnyaneshwar against Shrikrushna Pandhare, Santosh Pandhare and Bebibai Pandhare. The said was disclosing commission of cognizable offence. Therefore on 26.06.2019 itself police authority registered Crime no.107/2019 for the offence punishable under Sections 324, 504, 506 read with Section 34 of the IPC against aforesaid three persons.

On the next day of the incident i.e. on 27.06.2019 Bebibai (accused in Crime no.107/2019) lodged a report on the said with Police Station, Hivarkhed registered as Crime no. 108/2019 against present applicants and one Vaibhav for the offence punishable under Sections 324, 323, 294, 506 read with Section 34 of the IPC.

Both the applicants were arrested in connection with Crime No.108/2019 in first week of July, 2019. The applicants were released on bail.

It appears that subsequently investigating officer on the basis of the opinion given by the medical officer added section 307 of the IPC and thereafter the prosecuting agency filed an application for cancellation of bail of the

applicants which was allowed and accordingly the applicants were arrested afresh on 04.10.2019 and 03.10.2019 respectively and since then they are languishing in jail.

From the first information report it is clear that the incident in question has occurred due to long standing dispute pertaining to the agricultural land.

Injured in Crime No.108/2019 in which the present applicants are claiming bail was examined by the medical officer at Rural Officer, Lakhanwada, Khamgaon Dist. Buldhana on 26.06.2019. However injury certificate was given by doctor on 17.07.2019. The injury certificate did show that there occurred fracture of tibia. However, injury certificate is conspicuously silent in respect of any external injury on the head of Shrikrushna. The investigation papers which were made available by the learned Additional Public Prosecutor show that on 11.08.2019 vide letter having outward no.711/2019, Police Station, Hivarkhed, Dist. Buldana the investigating officer sought opinion from the doctor as to whether injuries caused to Shrikrushna are fatal and on the back side of the said letter the medical officer observed that blunt trauma on the skull may be fatal and thereafter offence punishable under Section 307 of the IPC was added.

The weapons allegedly used in the course of commission of weapons are already seized by investigating officer even before adding Section 307 of the IPC. The investigation papers also show that the injured was indoor patient from 26.06.2019 and discharged on 22.07.2019. In

view of the this medical certificate *prima facie* there could not be any dispute that injured suffered grievous injury, looking to the Clause 8 of Section 320 of the IPC.

The learned Additional Public Prosecutor has referred two earlier offences against the applicants vide Crime No.35/2018 and Crime No.39/2018. That clearly show that there was a dispute between complainant party and accused party who are close relatives of each other.

The investigation papers would show that though charge-sheet is not filed, the investigation is over and only formality of filing of charge-sheet is remained to be done.

Since the injured is already discharged from hospital on 22.07.2019 the present crime may not convert into more graver one.

In view of the aforesaid discussion, I pass following order:

ORDER

- (i) The application is allowed.
- (ii) Applicant no.1- Ganesh s/o Shrikurshna Holkar and applicant no.2 – Dyaneswar Yashwant Pandhare be released on bail in connection with Crime No.108/2019 registered with Police Station, Hivarkhed, Dist. Buldana for an offence punishable under Sections 324, 323, 294, 506 read with Section 34 of the Indian Penal Code, on they executing PR. Bond in the sum of Rs.10,000/- each, with one solvent surety each in the like amount.
- (iii) The applicants are directed not to enter village Lakhanwada after their release on bail for next two months.

(iv) They shall furnish their residential address during this period of two months to the learned Judge before whom they will be executing bail bonds and also to the investigating officer.

(v) The applicants are directed to attend Police Station, Hivarkhed, Dist. Buldana twice a week i.e. on every Saturday and Sunday and shall be with the investigating officer from 02:00 p.m to 03:00 p.m., till filing of the charge-sheet.

(vi) After filing of the charge-sheet the applicants shall attend Police Station, Hivarkhed, Dist. Buldana once a month i.e. on third Tuesday of each month and shall be with the investigating officer from 03:00 p.m to 05:00 p.m., till culmination of the trial.

The application is disposed of.

JUDGE

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