

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

CRIMINAL APPLICATION (BA) NO. 1063 OF 2019

Ravi s/o Mahadev Jumde .Vs. State of Maharashtra, through PSO, PS.
Wardha (City), Wardha.

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

Court's or Judge's orders.

Mr. A.M. Jaltare, Advocate for applicant.

Mr. J.Y. Ghurde, A.P.P. for non applicant-State.

CORAM : V. M. DESHPANDE, J.

DATED : NOVEMBER 26, 2019

Heard Mr. Jaltare, learned counsel for applicant and Mr. Ghurde, learned Additional Public Prosecutor. Also perused the charge-sheet placed on record.

Primarily bail application is opposed by the learned Additional Public Prosecutor for the State by filing reply contending therein that the applicant is having criminal antecedent. It is stated that two cases are registered against the present applicant; one in the year 2015 and another in the year 2017 and therefore, the application be rejected.

It appears that at no point of time the bail granted to the present applicant in previous offence was challenged by the prosecution. Merely because there are criminal antecedents that alone cannot be a factor to govern to decide the application for bail. The prosecution is duty bound to point out the accusation against the person who is

claiming bail so as to detain him in jail. Merely because his past record is not clean, is not sufficient for the prosecution to ask the Court that the applicant should continue his jail presence especially when there is no material against the applicant in the case in which he is claiming bail.

In the light of the aforesaid, now let us considered prosecution case in which the applicant is claiming regular bail.

The applicant who is joined as accused no.2 in the charge-sheet was arrested on 03.06.2019 in connection with Crime No.835/2019 registered with Police Station, Wardha (City), Wardha for an offence punishable under Section 307 read with Section 34 of the Indian Penal Code. The charge-sheet would reveal that the first information report was lodged by Kunal Vinyak Mandade. On examination of the first information report, it would show that Kunal was an eye witness. According to the first information report on 02.06.2019 when the first informant was proceeding for getting his cellphone recharged, that time he noticed the quarrel between Raju Hajare and Rahul Kasor on account of previous enmity. The first informant intercepted in the said quarrel and asked both not to quarrel. Thereafter he started proceeding towards market (*Bhajimandi*) on motorcycle. That time Vinod Hajare was following on his motorcycle. As per first information report, at *Bhajimandi* road in front of a scrap shop, the applicant and Rahul Hajare came on motorcycle. First information report clearly shows that applicant – Ravi was driving on

motorcycle whereas Rahul was pillion rider. Applicant – Ravi stopped motorcycle and thereafter pillion rider Rahul took out knife from his pant and assaulted on Vinod Hajare. Thereafter, injured was taken to the hospital. Injured Vinod was admitted as an indoor patient on 02.06.2019 and he stands discharged from hospital on 18.06.2019. On 02.06.2019, statement of Vinod was recorded by the Police Station Officer in presence of Doctor. The statement dated 02.06.2019 is part and parcel of the charge-sheet. It shows that the applicant was driving motorcycle and Rahul was a pillion rider. It is Rahul who assaulted on his abdomen. His medical paper is available. It shows one stab injury on lower abdomen. It is clearly said that the injury is attributed to Rahul and not to the present applicant. Further there is nothing in the charge-sheet that present applicant was knowing that Rahul is having weapon and he is going to assault on injured Vinod Hajare.

Looking to the role of the present applicant, merely because there are criminal antecedents, it will not be sufficient to detain the applicant further in jail. That leads me to pass the following order :

ORDER

- (i) The application is allowed.
- (ii) Applicant – Ravi s/o Mahadev Jumde be released on bail in connection with Crime No.835/2019 registered with Police Station, Wardha (City), Wardha for an offence punishable under Section 307 read with Section 34 of the Indian Penal Code, 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, Police Station, Wardha (City), Wardha once a week i.e. on every Sunday and shall be with the investigating officer from 11:00 a.m. to 05:00 p.m. until culmination of the trial.

(iv) The applicant shall not give any type of threat to any of the prosecution witnesses.

(v) The applicant is directed to attend all Court dates scrupulously.

(vi) The observations made by this Court in this order are only for deciding the present application. The learned Judge before whom trial will be conducted need not get himself influenced by it.

The application is disposed of.

JUDGE

srwagh