

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

CRIMINAL APPLICATION (BA) NO.1087/2019

Rajat s/o Budhulal Pancheshwar .vs. State of Maharashtra through PSO P.S.
Ramnagar, 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. J. Y. Ghurde, A.P.P. for non applicant-State.

CORAM : V. M. DESHPANDE, J.

DATED : DECEMBER 03, 2019

Heard Mr. Daga, learned counsel for applicant
and Mr. Ghurde, learned A.P.P. for non applicant-State.

At the outset, Mr. M. K. Pathan, learned A.P.P.,
who has drafted the reply in this matter, submits that there
is a misstatement of fact in the affidavit filed on behalf of the
prosecution that applicant has assaulted on injured witness
and the complainant. The learned A.P.P. tenders his apology
and submits that said mistake was unintentional and due to
oversight.

The statement is accepted.

Applicant is arrested on 28.10.2019 in connection
with Crime No.329/2019, registered with Police Station
Ramnagar, Dist. Gondia, for an offence punishable under
Sections 307, 324, 452, 294, 143, 144, 146, 147, 148, 149
read with section 34 of the Indian Penal Code and Sections 4
and 25 (1-B) (B) of the Indian Arms Act.

The incident has occurred on the day of Deepavali. The report is lodged by Ankit Chourasiya, who is one of the injured. His house is situated near one Jaiswal Wine Shop. According to the report, in view of Deepavali, *Rangoli* was drawn on the road and in order to save the same from the passers-by, a motorcycle was placed and thereby the road was closed. According to FIR, co-accused Arvind along with another person came on motorcycle. When they noticed that road is blocked, they tried to remove motorcycle, resulting into verbal altercations. Thereafter, said Arvind left the place and came after 15 minutes along with co-accused persons, including the present applicant. As per the FIR and the other prosecution witnesses, co-accused Raju Dubey, entered inside the house of the first informant, dragged him outside the house and assaulted him by means of swords. It is also stated that other injureds namely; Ashish and Subodh were also assaulted by said Raju. In the entire prosecution case, no overt act is attributed to present applicant. Of course, he is a member of unlawful assembly.

From the report, it is clear that all the weapons were seized on the spot itself by the present applicant, dropped by the persons who were holding the weapons.

Looking to the fact that no overt act is attributed against present applicant and applicant is in jail since 28.10.2019 and all the weapons are already seized coupled with the fact that applicant is not having any criminal antecedents, in my view, application can be considered favourably. Hence, I pass the following order.

ORDER

- (i) The application is allowed.
- (ii) Applicant-Rajat s/o Budhulal Pancheshwar, be released on bail in connection with Crime No.329/2019, registered with Police Station Ramnagar, Dist. Gondia, for an offence punishable under Sections 307, 324, 452, 294, 143, 144, 146, 147, 148, 149 read with section 34 of the Indian Penal Code and Sections 4 and 25 (1-B) (B) of the Indian Arms Act, on he executing P.R. Bond in the sum of Rs.10,000/- with one solvent surety in the like amount.
- (iii) Applicant shall attend Police Station Ramnagar, Gondia thrice a week i.e. on every Wednesday, Friday and Saturday and shall be with the investigating officer between 11.00 a.m. to 04.00 p.m. till filing of the charge-sheet. After filing of the charge-sheet, the applicant shall attend Police Station, once in a week i.e. on every Saturday between 02.00 p.m. to 05.00 p.m., till culmination of trial.

The application is disposed of.

JUDGE