

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

CRIMINAL APPLICATION (ABA) NO. 19 OF 2020

Ajay s/o Ashok Loungani .Vs. State of Maharashtra, through PSO, PS,
Gondia (City), 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. C.F. Bhagwani, Advocate for applicant.
Mr. N.B. Jawade, A.P.P. for non applicant-State.

CORAM : V. M. DESHPANDE, J.
DATED : JANUARY 21, 2020.

This is an application for pre-arrest bail.

Heard Mr. Bhagwani, learned counsel for the applicant and Mr. Jawade, learned Additional Public Prosecutor for non applicant-State. Also perused the detailed reply filed on behalf of prosecuting agency and investigation papers made available to me by learned Additional Public Prosecutor.

Applicant is apprehending his arrest in connection with Crime No.645/2019 registered with Police Station, Gondia (City), Dist.Gondia for an offence punishable under Section 326 of the Indian Penal Code (IPC).

Initially crime was registered for an offence punishable under Section 324 of the IPC on the basis of report lodged by Nitin Bagalkar. However, after receipt of query report from Medical Officer, offence is converted for the offence punishable under Section 326 of the IPC.

Injured is one Suresh Bagalkar, who is uncle of first informant Nitin Bagalkar. First Information Report

(FIR) would show that on 02.12.2019 when Nitin was proceeding on motorcycle, one Kailash gave dash to his motorcycle from the back side resulting into an accident that ensued verbal altercation between them. As per report, when this verbal altercation was going on, applicant Ajay came there and tried to push Nitin and tried to make assault by taking bicycle in his hand and thereafter went to his own shop. As per report, by that time first informant made a phone call to his uncle Suresh Bagalkar (injured) and disclosed the said incident. Thereafter, Suresh came on the spot and he tried to gave a word of advice to the present applicant. As per FIR, at that time the applicant took out an iron rod from the dicky of his four-wheeler and tried to assault on Nitin. When Nitin caught hold of the said rod, at that time applicant's father Ashok Kumar separated them. At that time applicant dragged Suresh (injured) in his shop and assaulted on his head by iron rod which he took out from his own car dicky, resulting into bleeding injuries. As per prosecution case, thereafter injured was taken to Government Medical College K.T.S. and B.G.W. Hospital at Gondia. There the Medical Officer called for the opinion of the surgeon and C.T. Scan of brain was advised. The C.T. Scan is available in the investigation papers which shows *“communated fracture of squamous part of right temporal bone with linear extension to involve right parital bone.”*

After the C.T. Scan injured was referred for his further medical management at Government Medical College and Hospital, Nagpur and he was admitted. After

getting treatment, as per learned Additional Public Prosecutor, now injured stands discharged from the hospital.

Statement of injured also attributes the role of the applicant. His statement would show that applicant asked his servant to bring rod from his car and thereafter he took out iron rod and assaulted on injured.

As per learned counsel for applicant, the applicant is falsely implicated in the crime as it could be seen from the photographs which he tried to show before the Court which are not record. Those photographs which he is trying to rely is his defence and this is not the stage to consider the defence. The defence can be considered at the appropriate stage. Learned Additional Public Prosecutor has also mentioned in the reply that applicant is having past criminal record inasmuch as one crime is registered against the applicant vide Crime No.109/2019 for an offence punishable under Sections 452, 323, 503, 506 read with Section 34 of the IPC and same is still pending. It shows that applicant is having past record of bodily offence.

In view of the eye witness statements and looking to the injuries sustained by the injured person, present is not a case wherein this Court should exercise discretion in favour of applicant. Consequently, the application is rejected.

JUDGE