

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL APPLICATION (BA) NO. 218 OF 2020

Bibisingh s/o Jesa Pawar

vs.

The State of Maharashtra through PSO,PS, Khandala, Tal. Pusad, Dist.Yavatmal

Office Notes, Office Memorandum of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri. R. M. Daga, counsel for applicant.
Smt. Hemlata Jaipurkar, APP for state.

CORAM : MANISH PITALE J.

DATED : 22/05/2020

Hearing was conducted through Video Conferencing and the learned counsel agreed that the audio and visual quality was proper.

2. Heard learned counsel for the applicant and learned APP on behalf of State.

3. This is an application for grant of bail filed by the applicant wherein he is accused of having committed of offences under Sections 302 and 323 r/w 34 of the I.P.C. as also sections 4 and 25 of the Arms Act.

4. According to the prosecution, the incident in question occurred when wife and one of the sons of the applicant/accused visited him and raised a dispute about his intention to sell ancestral property. In the process of

dispute between the parties, the applicant is alleged to have assaulted his son by means of a knife and he also caused certain injuries to his wife. The injured son succumbed to the injuries resulting in registration of the aforesaid crime against the applicant.

5. It is the case of the applicant that he has been behind bars for about three years and that presently charges have been framed before the Trial Court at Pusad. It is submitted on behalf of the applicant that in the incident in question even the applicant had suffered injury as he was assaulted by the deceased. An injury certificate has been brought to the notice of this Court showing that the applicant suffered a depressed fracture of the high parietal bone on the left side due to the assault on him. It is also pointed out that an F.I.R. under Section 326 was registered against the accused who had assaulted the applicant herein. It is pointed out that the applicant does not have any criminal antecedent and that this was only one such incident that occurred.

6. The learned counsel of the applicant also made a statement that if the applicant is released on bail, he would not enter the jurisdiction of the police station where the crime was registered and that he would stay away at Pusad, so as to address the apprehension expressed by the respondent State regarding the possibility of influencing the witnesses.

7. The learned APP submitted that the applicant

could certainly pressurize and influence the witnesses, one of whom is his own wife and an injured witness. It is further pointed out that the assault was by means of a dangerous weapon like knife and that therefore, looking to the seriousness of the allegations made against the applicant, the application ought to be dismissed.

8. This Court has taken into consideration the contents of the charge-sheet and the material placed on record on behalf of the prosecution. It is an admitted position that the applicant has been in custody for about three years. There appear to be no criminal antecedents of the applicant. The incident appears to have occurred during the course of a dispute raised by the deceased against his own father i.e. the applicant. It is also a fact that the applicant himself suffered a head injury in the incident. In these circumstances, this court is inclined to allow the present application. At the same time, the apprehension expressed on behalf of the respondent State regarding possibility of influencing and pressurizing witnesses needs to be taken into consideration. Therefore appropriate conditions are being imposed on the applicant herein.

9. In view of the above the application is allowed in following terms :-

(i) The applicant shall be released on bail on furnishing PR Bond of Rs.25000/- (Rupees Twenty Five Thousand only) and surety in the like amount.

(ii) The applicant, during the course of Trial, shall not enter the jurisdiction of police station, Khandala, District – Yevatmal.

(iii) The statement of the applicant is recorded that he will reside at Pusad.

(iv) The applicant shall report to police station, Pusad on the 2nd and 4th Mondays of each month during the pendency of the Trial.

(v) The applicant shall not alienate the ancestral agricultural property, which was the cause of dispute, during the pendency of the trial.

(vi) The applicant shall place on record before the Trial Court, the details of his place of residence at Pusad and his contact number, within a period of two weeks from today.

10. The application is allowed in above terms.

JUDGE