

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

CRIMINAL APPLICATION (ABA) NO.150 OF 2020

(Rajendra s/o Ganesh Hiranwar and others Vs. The State of Maharashtra thr. PSO PS
Wadi, Nagpur)

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

Court's or Judge's orders.

Shri Sudeep S. Jaiswal, Advocate for Applicant.
Shri P.S. Tembhare, APP for Non-Applicant/State.

CORAM: ROHIT B. DEO, J.

DATE: 13th MARCH, 2020.

The applicants are apprehending arrest in Crime 39/2020 registered with Police Station Wadi, Nagpur for offences punishable under Section 143, 147, 148, 149, 325, 307, 323, 504 and 506 of the Indian Penal Code r/w 135 of the Bombay Police Act.

2] Both, the learned counsel for the applicant Shri Jaiswal and the learned APP Shri Tembhare are in unison in submitting that only non-bailable offence with which the applicants are charged is section 307 of the IPC. According to both the learned counsel, every other offence is bailable.

3] In so far as offence punishable under section 307 of IPC is concerned, the investigating agency registered the said offence on the premise that Shri Satish Patil was assaulted, grievously injured and was admitted in hospital

in critical condition. The offence was registered presumably on the basis of the statement of the eye witnesses.

4] The incident occurred on 17.02.2020. Shri Satish Patil was indeed admitted to hospital. However, as it has turned out, he was admitted in the hospital for an appendicitis operation and was discharged on 29.02.2020. Police recorded the statement of Satish Patil on 29.02.2020. Shri Patil states that he got himself admitted in the hospital due to severe pain in the stomach and was operated for appendicitis. Shri Patil has not spoken of any assault on him much less an assault resulting in any injury. In this view of the matter, there appears to be substance in the submission of Shri Jaiswal that at this stage there is no material to connect the applicants with offence punishable under section 307 of the IPC.

5] The learned APP Shri Tembhare would however, point out that applicants 3 and 5 have criminal antecedents. However, in the light of the *prima facie* view taken, the fact that applicants 3 and 5 have criminal antecedents would not disentitle them to bail.

6] Other than section 307 of the IPC, the other offences may be bailable as submitted by the learned counsel for the applicants and the learned APP. However, considering the brazen manner in which there was an attempt to take law in their own hands, the applicants shall have to be put to strict terms.

7] In the event of arrest the applicants be released on bail on furnishing personal bond of Rs.20,000/- each with a solvent surety of like amount.

8] The applicants shall attend Police Station Wadi every Monday from 11:00 a.m. to 04:00 p.m. till the filing of the charge-sheet.

9] The attendance shall be marked in diary and the same shall be countersigned by the Investigating Officer and the photocopy of the diary shall be submitted in the trial court once in fifteen days.

10] If the applicants are involved in any offence, akin to the offence with which they are charged that *ipso facto* may entail in withdrawal of the pre-arrest bail.

11] The applicants shall not directly or indirectly make any attempt to influence the witnesses.

JUDGE