

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

CRIMINAL APPLICATION (BA) 462 OF 2020

(Mahesh s/o. Prabhudas Meshram..vs.. State, thr PSO, PS, Durgapur, Dist. Chandrapur)

*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. Tahliyani, counsel for applicant.
Miss. T.H. Udeshi, APP for non-applicant.

CORAM: ROHIT B. DEO, J.
DATE:03.09.2020.

Hearing was conducted through video conferencing and the learned counsel agreed that the audio and visual quality was proper.

2. Heard.

3. The applicant is seeking bail in connection with Crime 102/2020 registered with Police Station Durgapur, District Chandrapur for offence punishable under sections 147, 148, 149, 307 of the Indian Penal Code.

4. The injured is one Bhagirathi Thakur who is an employee of one Bandu Shahu.

5. The case of the prosecution is that there was an altercation between the applicant and Bandu Shahu. The cause was while Bandu Shahu was playing songs on speaker box and the neighbourhood children were dancing to the tune of the music, the applicant ventured there along with a ferocious dog of great dane breed. Bandu Shahu

objected to the applicant coming there with the dog since young children were dancing.

6. The further case of the prosecution is that the applicant returned along with co-accused and assaulted the injured, one tenant Sagar Pode and one Vicky Shahu. It is Bhagirathi who suffered grievous injuries due to sword assault. According to the prosecution, while the sword blow which caused the grievous injury, was inflicted by co-accused Karim, the present applicant was also armed with a sword and he too attempted to inflict a blow which missed the target as Bhagirathi took evasive action.

7. The First Information Report lodged by the eye witness makes no reference to the applicant attempting to assault Bhagirathi with sword. Indeed, there is no reference to the applicant being armed with sword. Bhagirathi does attribute such attempt to the applicant, but then his statement is recorded on 25.4.2020 more than a month after he was discharged from the hospital. Two swords are recovered. A sword is recovered from co-accused Karim on 28.4.2020 and later on another sword is recovered from the applicant on 21.5.2020. At this stage, considering the contents of the First Information Report, it is debatable whether the applicant was really armed with a sword.

8. In any event, the investigation is complete and the charge sheet is filed. The learned APP Miss. T.H. Udeshi would invite attention of this Court to the fact that the applicant is facing other prosecutions and is likely to

influence or intimidate the witnesses. This apprehension can be addressed by imposing stringent conditions. I do not see any reason why the applicant should continue to further languish in jail custody.

9. The application is allowed subject to the following conditions:

(i) The applicant shall be released on furnishing P.R. Bond of ₹ 25,000/- with a surety of like amount. Considering the prevailing situation, the surety may be furnished within four weeks of the bail.

(ii) The applicant shall not enter the territorial limit of the Chandrapur District including Urjanagar without the permission of the trial Court save and except for attending the dates of hearing.

(iii) The applicant shall not indulge in any criminal activity and breach of this condition may *ipso facto* entail cancellation of bail.

(iv) The applicant shall not, directly or indirectly, make any attempt to influence the witnesses or otherwise tamper with the investigation.

Judge