

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

LD-VC- CRIMINAL APPLICATION (BA) NO. 121 OF 2020

(Sunil s/o Vithoba Gundawar vs. State of Maharashtra, thr. PSO, PS Ashti, District –
Gadchiroli) WITH

LD-VC- CRIMINAL APPLICATION (BA) NO. 147 OF 2020

(Kapil s/o Ramchandra Pal & 3 Ors. vs. State of Maharashtra, thr. PSO, PS Ashti, District –
Gadchiroli) WITH

LD-VC- CRIMINAL APPLICATION (BA) NO. 148 OF 2020

(Nana s/o Bhagirath Thakur vs. State of Maharashtra, thr. PSO, PS Ashti, District –
Gadchiroli) WITH

LD-VC- CRIMINAL APPLICATION (BA) NO. 149 OF 2020

(Anil s/o Domaji Thakur vs. State of Maharashtra, thr. PSO, PS Ashti, District – Gadchiroli)
AND

LD-VC- CRIMINAL APPLICATION (BA) NO. 227 OF 2020

(Deepak s/o Umaji Bhivankar & Anr. vs. State of Maharashtra, thr. PSO, PS Ashti, District –
Gadchiroli)

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

Court's or Judge's orders.

Shri R.R. Vyas, Advocate for the applicants.

Shri N.B. Jawade, APP for the non-applicant – State.

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CORAM : PUSHPA V. GANEDIWALA, J.
AUGUST 03, 2020.

Heard Shri Vyas, learned counsel for the
applicants and Shri Jawade, learned APP for the non-
applicant – State, through video conferencing.

The applicants in these applications are
said to be arrested in Crime No. 154 of 2019
registered at Police Station Ashti, District –
Gadchiroli, for the offence punishable under Sections
302, 341, 120-B, 147, 148 and 149 of the Indian

Penal Code and Section 135 of the Maharashtra Police Act.

Perused the applications, affidavit-in-reply, documents and the charge sheet with the assistance of the learned counsel for the parties.

At the outset, the prosecution takes support of one eye witness by name Suresh Kuttermare, for the alleged incident of murder.

The prosecution case, in short, is that the present applicants illegally encroached upon the agricultural land of the informant and his brother and there were civil litigations pending amongst them. It is stated that the possession warrant for the said land was issued against the applicants. The informant is the brother of the deceased.

A perusal of the police statement of eye witness Kuttermare recorded on 06.11.2019 would reveal that while he along with the deceased Balwant Gaurkar were proceeding on Scooty towards Ashti Rest House Road, suddenly 8 to 10 unknown people with sticks, iron rod and knife attacked them. He saw these people using these weapons for assaulting the deceased Balwant Gaurkar. Balwant was screaming but due to dark, he could not identify the assailants. He got scared and escaped from the spot and informed brother of the deceased – Balwant.

This witness, in his statement recorded

under Section 164 of the Code of Criminal Procedure on 09.01.2020 again repeated that he could not see the assailants. However, later on, in his additional statement recorded under Section 164 of the Code of Criminal Procedure on 28.01.2020, stated names of some of the assailants, on the basis of their names appeared in the Newspaper.

Apart from the above, undisputedly, there is no other eye witness to the incident, who came forward.

In the background of the above facts and the fact that the investigation is completed and the charge sheet is also filed, no fruitful purpose would be served in keeping the applicants behind the bar.

For the reasons stated above, I pass the following order :

The applicants in these applications be released on bail on executing Personal bond of Rs.20,000/ each with one surety each in the like amount.

The applicants shall not enter the vicinity of the area where the witnesses reside.

The applicants shall not pressurize or issue threats to the witnesses.

The applicants shall not tamper with the prosecution witnesses.

The applicants to attend the concerned

police station once in a month i.e. on every first Thursday of the month between 12.00 Noon and 2.00 P.M.

The observations made in this order are only for the purpose to decide bail application and the trial Court shall not get influenced with the same.

The order be communicated to the counsel for the parties either on email address or non Whatsapp or by such other mode, as is permissible in law.

JUDGE

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