

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

LDVC CRI ABA NO. 388/2020

Damodar s/o Motiram Kokate and ors. .vs. State of Maharashtra through
PSO P.S. Shirpur, Tq. Malegaon, Dist. Washim.

AND

LDVC CRI ABA NO. 852/2020

Shivraj s/o Tukaram Sable .vs. State of Maharashtra through PSO P.S.
Shirpur, Tq. Malegaon, Dist. Washim.

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

Court's or Judge's orders.

Mr. Amit Band, Advocate for applicants.
Mr. I. Damle, A.P.P. for non applicant-State.

CORAM : V.M. DESHPANDE, J.

DATED : AUGUST 18, 2020

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

Heard Mr. Band, learned counsel for applicants and Mr. Damle, learned A.P.P. for non applicant-State. Also perused reply filed by the prosecution.

These two applications for pre-arrest bail are arising out of Crime No.150/2020 registered with Police Station, Shirpur, Tq. Malegaon, Dist. Washim for an offence punishable under Sections 147, 148, 149, 324, 504, 452, 188, 269, 270, 271, 307 of the Indian Penal Code. Hence, they are heard together and they are disposed of by this common order.

In Criminal Application No. 388/2020, there are seven applicants whereas in Criminal Application No. 852/2020, there is sole applicant.

At the outset, it is the submission of learned counsel for the applicants that through their names figure in the first information report, the allegations made against them are most general in nature. He submits that the main accused Sonu alias Rameshwar Sable was arrested and at his behest weapon; knife was recovered. It is also his submission that he is already released on regular bail by the trial Court. He, therefore submits that the applications be allowed.

Per contra, it is the submission of the learned A.P.P. that there are four injured and names of the applicants are figuring in the FIR. He, therefore, submits that the application be rejected.

The FIR was lodged by Ramesh Kokate on 21.05.2020 in respect of the incident that occurred near the house of the first informant on the very same day. From the FIR, it is clear that the first informant is not an eye witness. He lodged the report when he received information from his son Bhagwan and wife Lilabai. As per the FIR, he sold his property to one Keshav Motiram Kokate. There was a dispute over waste water between Keshav Kokate and Damodar Kokate, who is applicant no.1 in Application No. 388/2020. Therefore, as per the FIR, on 19.05.2020, he tried to resolve the dispute. The report further states that on 20.05.2020 at about 01.00 O'clock, Ramdas Bandu Gore gave a threat of assault. Similarly, applicant no. 3-Manik also gave abuses.

According to the FIR, aforesaid was the prelude for filing the FIR. As per the FIR, Bhagwan and Lilabai disclosed to the first informant that they were assaulted by

applicants. Statements in the case diary would show that the arrested accused Sonu tried to assault on Bhagwan by means of dagger. However, somehow, he could save himself resulting into injury on Bhagwan's right hand.

The learned A.P.P. pointed out from, the injury reports of injured Bhagwan, Keshav, Ramkrushna and Lilabai that they have trauma on their heads and other parts of the body. The learned A.P.P. for State prayed for custodial presence of accused for recovery of the weapons.

As it could be seen from the reply and the submission of learned A.P.P. regarding nature of the injury given by accused Sonu, who is already arrested and from him weapon is already recovered. All these applicants were granted ad interim anticipatory bail by this Court on earlier occasion with a direction to attend Police Station on every Sunday and shall maintain the diary. The learned counsel for the applicants, therefore, submitted that accordingly, the applicants have scrupulously followed the said condition and have maintained the diary. This submission is not controverted by the learned A.P.P. either in the reply filed by the investigating officer or during the course of the oral submissions. Therefore, there is no difficulty in accepting the submissions of the learned counsel for the applicant that the applicants have attended the police station and joined the investigation.

In the backdrop of the aforesaid events, I pass the following order.

ORDER

- (i) The applications are allowed.
- (ii) In the event of arrest connection with Crime No.

150/2020 registered with Police Station, Shirpur, Tq. Malegaon, Dist. Washim for an offence punishable under Sections 147, 148, 149, 324, 504, 452, 188, 269, 270, 271, 307 of the Indian Penal Code, applicant no.1-Damodar s/o Motiram Kokate, applicant no.2-Sau. Rekhabai Damodar Kokate, applicant no.3-Manik s/o Damodar Kokate, applicant no.4-Rameshwar s/o Chandrakant Gore, applicant no.5-Digambar Ashru Savle, applicant no.6-Madan s/o Sitaram Sable and applicant no.7-Yogesh s/o Digambar Sable, all applicants in Criminal Application No.388/2020 and applicant-Shivaji s/o Tukaram Sable, applicant in Criminal Application No. 852/2020, be released on bail on they executing P.R. Bond in the sum of Rs.25,000/- each with one solvent surety each in the like amount.

(ii) Except applicant no.1-Damodar s/o Motiram Kokate, applicant no.2-Sau. Rekhabai Damodar Kokate all the applicants are directed to attend Police Station, Shirpur, Tq. Malegaon, Dist. Washim on every Sunday between 03.00 p.m. to 05.00 p.m. till charge-sheet is filed.

The applications are disposed of.

The order be communicated to the counsel appearing for the parties either on the e-mail address or on WhatsApp or by such other mode, as is permissible in law.

JUDGE

kahale

**Yogesh
Kahale**

Digitally
signed by
Yogesh Kahale
Date:
2020.08.18
16:38:44
+0530