

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

LD-VC-CRI APPLICATION (BA) NO. 422 OF 2020

(Raju s/o Dajiba Chavan vs. State of Maharashtra thr. PSO, Hiwarkhed PS, Tq. Khamgaon,
District – Buldhana)

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

Court's or Judge's orders.

Shri D.G. Dhobale, Advocate for the applicant.
Shri N.H. Joshi, APP for the non-applicant – State.

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CORAM : PUSHPA V. GANEDIWALA, J.
AUGUST 20, 2020.

Heard Shri Dhobale, learned counsel for the applicant and Shri Joshi, learned APP for the non-applicant – State, through video conferencing.

The applicant is said to be arrested in Crime No. 142 of 2019 for the offence punishable under Sections 302, 307, 324, 143, 147, 148, 149 and 504 of the Indian Penal Code read with Section 135 of the Maharashtra Police Act, 1951, registered at Police Station Hiwarkhed, District – Buldhana.

The informant – Amol Pran Pawar in his report stated that in the evening when he returned from agricultural field to his house, he saw the maternal uncle Raju Dajiba Chavhan assaulting his father with axe due to which his father sustained injuries and fallen down. When he went to rescue his father, Vilas

Chavhan attacked Amol with axe on his head and also attacked the mother of Amol when she tried to pacify Raju and Vilas by other co-accused with fist and blows. During treatment, father of the informant – Amol succumbed to his injury. The post mortem report reveals cause of death as “Head injury”.

It is stated that the Investigating Officer recovered the axe used by the applicant under Section 27 memorandum.

A perusal of the FIR and other documents on record shows that the incident is said to have taken place on 04.08.2019 when the applicant along with other accused persons, his family members, allegedly assaulted the complainant. The dispute appears to have arisen due to a grievance raised by the victim with regard to certain alleged construction made by the applicant and his family. Although, initially, it was the case under Section 307 of the Indian Penal Code, but later on Section 302 of the IPC was added as injured succumbed to the injury. The injury was suffered by the victim on the head due to blow of axe given by the applicant.

The learned counsel appearing for the applicant states that the applicant has no criminal antecedents and that the incident occurred during the course of altercation. The applicant is behind the bars since 05.08.2019 and the investigation is

completed and charge sheet has also been filed and weapon of offence is already recovered. It is submitted that the co-accused Vilas is already on bail.

A perusal of the post mortem report and the charge sheet would reveal injuries in the nature of abrasion, laceration and contusion. In column No. 19 of the post mortem report, underscalp and skull injuries in the nature of hematoma, fractures, dislocation etc. are shown.

As per the prosecution story, axe is used in the alleged incident, however, column No. 19 of post mortem report shows injuries which are possible with hard and blunt impact.

Considering the nature of material placed on record, coupled with the fact that this appears to be the first instance when the applicant has been involved in a criminal case, I am inclined to allow the application on stringent conditions and the same is allowed. Hence, the following order :

Criminal Application is allowed. The applicant – Raju s/o Dajiba Chavan, be released on bail on executing Personal bond of Rs. 25,000/- (Rs. Twenty five thousand only) with one surety in the like amount.

The applicant shall not enter the vicinity of the area where the witnesses reside. He shall supply the

mobile number and residential address where he shall reside while on bail, to the concerned police station.

The applicant shall not pressurize or issue threats to witnesses.

The applicant shall not tamper with the evidence of prosecution.

The applicant to attend 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.

Criminal Application is disposed of accordingly.

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

JUDGE

*GS.