

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

CRIMINAL APPLICATION (BA) NO. 799 OF 2021

(Raj s/o Kisan Prajapati and another ..vs.. State of Maharashtra, through PSO Jaripatka, Nagpur)

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

Court's or Judge's orders

Mr. B.V. Chawhan, Counsel for the applicants,
Mr. M.K. Pathan, Addl.P.P. for the non-applicant/State.

CORAM : ROHIT B. DEO, J.

DATED : 31-08-2021

The applicants are amongst the eleven accused including a juvenile-in-conflict, who allegedly assaulted the informant Shubham and his maternal uncle Jagdish Madne. The motive alleged is an altercation which ensued between Jagdish Madne and one Dhanraj Bawane, who allegedly set up his meat shop in front of the residence of Jagdish.

2. Shubham suffered an injury to the hand. Jagdish was dealt a solitary blow on the buttock. The prosecution case is that Jagdish succumbed due to excessive bleeding.

3. The statements of eyewitnesses, which are consistent, is that Raju Katre and Akash Rajpoot arrived at the scene alongwith their associates. The actual assault is attributed to Raju Katre and one unnamed associate. The investigating agency has conducted test identification parade. Shubham has not identified either

of the applicants-Raj Prajapati and Nishant Dahare. Nitesh @ Bobby Gaikwad, who is an employee working in the shop of the deceased, has identified Raj Prajapati as one of the associates. However, there is nothing in the charge-sheet which would throw light on the role played by Raj Prajapati in the assault. The witness, who identified Raj Prajapati, has not clarified the role played by Raj Prajapati and it appears that supplementary statement is not recorded after the test identification parade.

4. In my considered view, the applicants have made out a case for bail. It is not the case of the prosecution that the applicants have criminal antecedents. The applicants are not likely to pose a flight risk. The prosecution alleges conspiracy to commit murder. It would be for the trial Court to look into the angle of conspiracy since it would only be after the recording of evidence that any finding can be rendered on the existence of conspiracy and the offence which the accused intended to commit.

5. At this stage, further detention in custody would only be a pre-trial punishment.

6. The application is allowed.

7. The applicants shall be released on bail on

executing personal bond of Rs.25,000/- each with a solvent surety of like amount.

8. The applicants shall report at the concerned police station on the 1st and 15th day of every month and shall obtain acknowledgment/confirmation of attendance in a diary separately maintained for that purpose. Any breach of this condition may *ipso facto* entail in cancellation of bail, if an appropriate motion is moved by the State.

9. While on bail, the applicants shall not indulge in any criminal activity and breach of this condition shall *ipso facto* entail in cancellation of bail, if an appropriate motion is moved by the State.

10. The applicants shall not make any attempt to contact muchless influence any witness and shall not enter the territorial limits of Jaripatka Police Station, Nagpur, save and except to mark the attendance or to attend the dates of hearing.

11. The applicants shall scrupulously attend every date of hearing and any default, unless condoned by the trial Court, shall entail in cancellation of bail.

12. The applicants shall not leave the country without the permission of the trial Court.

JUDGE