

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

CRIMINAL APPLICATION (BA) NO. 1319/2020

Prakash S/o Ziranga Hichami & anr.

-VERSUS-

State of Maharashtra.

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders

Shri A. C. Jaltare, Advocate for applicants.
Mrs. S. S. Jachak, APP for non-applicant/State.

CORAM : VINAY JOSHI, J.

DATE : 07.04. 2021.

Hearing was conducted through Video
Conferencing.

2. Applicants are seeking regular bail in terms of Section 439 of the Code of Criminal Procedure in crime No. 3/2020 registered with Police Help Center, Kotam Police Station, Etapalli for the offence punishable under Sections 307, 353, 143, 147, 148, 149, 120(b) of the Indian Penal Code read with Section 5/28 of the Arms Act.

3. It is the prosecution case that on 31.05.2020, Naxalite formed unlawful assembly and indiscriminately fired on the Police with an intention of causing death. Applicants have

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participated in the said Naxalite movement. The State resisted bail vide reply-affidavit dated 09.01.2021. It is contended that during course of investigation, it was revealed that applicants have attended Naxalite meeting and had participated in the deadly attack occurred on the day of incident. It is stated that the names of accused were heard by several persons when the Naxalite were talking at the time of attack. According to the prosecution, applicants are active members of Naxalite movement and they use to support Naxalite and as such, they have committed serious offence.

4. At the instance of report lodged by the P.S.I. Yogesh Patil, crime was registered. The informant stated that on 31.05.2020 on receipt of intimation, Police searched Zuri Jungle area. When the Police were taking rest at Kondawahi, during night hours Naxalite came and started indiscriminate firing with the intention to kill the Police Personnel. At the time of firing, the Naxalite were taking names of both applicants. Besides the allegation that names of applicants were taken by Naxalite, no other incriminating material has been shown against applicants. Though it is alleged that there was indiscriminate firing, however no bullet marks were found on nearby tenements. While resisting bail, the State has canvassed about the antecedents of applicants

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for which certain documents are filed. It reveals that besides two crimes registered in the year 2014 against applicant – Nandu, there is no other convincing material to that effect. Investigation is complete and charge-sheet has been filed. Nothing has been seized at the instance of applicants. Considering the allegation that the Police heard the names of applicants in the incident, they cannot be indefinitely detained behind bar.

5. Admittedly, no one sustained injury in concerned incident. The submission that applicants' presence on the spot itself is doubtful, requires consideration. The trial will take its own time for disposal according to law.

6. Having regard to the nature of accusation and the material collected against the accused, they can be released on bail by imposing certain conditions. In view of that, following order:-

(I) Application stands allowed.

(II) Applicants/accused namely Prakash S/o Ziranga Hichami and Nandu S/o Ramsu Gota be released on bail on their furnishing P.R. Bond of Rs. 25,000/- with one or two sureties in the like amount each.

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(III) Applicants shall not communicate to the Naxlite group in any manner and should stay away from the said movement.

(IV) Applicants shall attend concerned Police Station on every alternate Monday between 10.00 a.m. to 12.00 noon till conclusion of trial.

(V) Applicants shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case and also shall not tamper with the evidence.

(VI) Applicants shall provide their residential address and cell number to concerned Investigating Officer and shall not change their place of residence without prior intimation to the concerned Investigating Officer.

JUDGE

Gohane.