

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

CRIMINAL APPLICATION (BA) NO. 299/2022

Namdev Laxman aGirsawale and ors...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

Mr. M.N.Ali Advocate for applicants
Ms. T.H.Udheshi, Advocate for respondent/State

CORAM : AVINASH G. GHAROTE, J.

DATE : 25/04/2022

1] Heard Mr. Ali, learned counsel for the applicants
and Ms. Udheshi, learned APP for respondent/State.

2] The applicants have been arraigned for the
offence under Sections 326, 504, 34 of the IPC in Crime
No.272/2022. The incident is dated 5.3.2022. The applicant
Nos. 1 and 2 had been arrested on the same day, whereas
applicant no. 3 was arrested on 6.3.2022.

3] Mr. Ali, learned counsel for the applicants submits
that the applicants have been falsely implicated. He submits
that even otherwise the action attributed to the applicant Nos.
1 and 2 would indicate that there was no assault on any vital
part of the body and therefore, these applicants are entitled to
bail. He further submits that in so far as applicant No. 3 is
concerned, he is also entitled to bail, considering the nature of

the injury.

4] Learned APP opposes the application and submits that the record indicates the role of all the applicants, in assaulting the complainant and therefore, the application needs to be rejected.

5] On 5.3.2022 at about 10 a.m. on a suspicion that the complainant was abusing the applicants who were his neighbours, the applicants went to the house of the complainant and assaulted him, resulting in the FIR. It is however material to note, the assault attributed to the applicant No.1 Namdeo is by a wooden stick on the leg of the complainant and that by the applicant No. 2 Indrapal, is by a hockey stick on the leg. Though this has resulted in the fracture of the leg and therefore, can be classified as a grievous injury, however considering that the assault is not on any vital part of the body, a case for bail is made out.

6] In so far as the applicant No. 3 is concerned, the record indicates that the assault by him was by an iron rod on the head of the complainant, due to which, at this stage I am not inclined to accept the application on his behalf. It is contended that the applicant No. 3 is a student and therefore, would be required to appear in the ensuing examination, however, there is nothing on record to indicate whether the

applicant has filled in the exam form for the ensuing examination for the 2nd year of Electrical Engineering, considering which the application in so far as the applicant No. 3 is concerned is rejected. It is however, made clear that in case, the applicant No.3 would be appearing in any examination, liberty is granted to him to move the Court on that ground restricted to the appearance in the examination and nothing else. Hence the following order.

O R D E R

I] Application is partly allowed. Applicant No. 1 Namdev Laxman Girsawale and Applicant No.2 – Indrapal Namdev Girsawale, be released on bail for the offence punishable under Sections 326, 504, 34 of the IPC in Crime No.272/2022 registered with Hinganghat Police Station, District-Wardha, on their executing PR bond in the sum of Rs. 50,000/- each with two solvent sureties each in the like amount.

II] The applicants shall not tamper with the prosecution evidence, nor shall directly or indirectly influence the prosecution witnesses in any manner.

III] The applicants shall cooperate with the Investigating Officer and remain present in the Police Station

as and when called upon.

IV] Upon the charge-sheet being filed, the applicants shall appear in the trial Court on all dates and ensure that the trial is not protracted on their count.

Rvjalit

JUDGE