

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

CRIMINAL APPLICATION (BA) NO.1467/2022

Chirkuta @ Avinash Gopalrao Dhengale Vs. 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. S.V. Sirpurkar, Advocate for applicant.
Mr. V.A. Thakre, APP for respondent.

CORAM : ANIL L. PANSARE J.

DATE : 17/01/2023

1. Heard.
2. Leave to amend first paragraph of petition to the extent of replacing the statement “thereafter charge-sheet also came to be filed” by “chargesheet has not been filed” is granted. Amendment be carried out forthwith.
3. The applicant has filed this application under Section 439 of the Code of Criminal Procedure, 1973. The applicant has been arrested on 30.11.2022 in Crime No. 697/2022 for the offences punishable under Section 324 (now Section 307 of the Indian Penal Code has been added) read with Section 34 of the Indian Penal Code.

4. The allegations against the applicant are that on 14.11.2022, the applicant came to the field of her father Amrut and assaulted him by Kathi (stick) and on gaining such knowledge the informant went to the field wherein she found her father lying unconscious. Accordingly, FIR came to be lodged against applicant for the offence punishable under Section 324 read with Section 34 of the Indian Penal Code. However, considering the injury report, where it is found that Amrut suffered fracture injury to the skull, Section 307 of the Indian Penal Code has been added.

5. Mr. Sirpurkar, learned counsel for the applicant submits that Section 307 of the Indian Penal Code came to be added at the instance of the informant, who pressurized the Investigating Agency by taking a press conference, the copy of the newspaper cutting has been placed on record, to glorify the incident in question. The Investigating Agency succumbed to the pressure and added Section 307 of the Indian Penal Code.

6. The learned APP however, would counter these allegations on the ground that provision of Section 307 of the Indian Penal Code has been added

on the ground of injury report and not under any pressure.

7. Be that as it may, cause for the dispute appears to be civil case pending before the Civil Court. The applicant has filed Civil Suit seeking injunction against the brother of the injured restraining brother, injured and other family members restraining them from entering into the field and to install electric meter.

8. Upon inquiry, learned APP submits that investigation is likely to be completed within a week. Statements of the witnesses have been recorded and some formalities now remain. The weapon of assault has been recovered.

9. The learned APP has expressed apprehension that, if released, the applicant may enter in the field and may pressurize the prosecution witnesses. Such apprehension can be dealt with by putting applicant to appropriate conditions. Learned APP then submits that few cases are pending against the applicant. The first case relates to the offence registered in the year 2010. Mr Sirpurkar submits that the applicant has been acquitted in the said crime. In the second case the applicant is facing trial

under Sections 353 and 427 of the Indian penal Code. He appears to have assaulted Block Development Officer while he was on duty. For this, the applicant can be put to notice that if the attitude of the applicant continues, the subsequent offences shall be viewed seriously.

10. Since the investigation is almost complete and it will take some time for the trial to commence and conclude, no purpose will be served by keeping applicant behind bars. Hence, following order:-

(i) The applicant – Chirkuta @ Avinash Gopalrao Dhengale shall be released on bail, on executing a PR bond in the sum of Rs.30,000/- (Rupees thirty thousand), in respect of Crime No.697/2022 for the offences punishable under Sections 324, 307 read with Section 34 of the Indian Penal Code, registered with non-applicant Police Station, Warora, Distt Chandrapur, with one or two solvent sureties in the like amount.

(ii) The applicant shall cooperate with the Investigating agency and shall attend the concerned Police Station on every Wednesday between 3.00 and 5.00 p.m. and also as directed by the Investigating Officer till filing of charge-sheet. Further after commencement of the trial, the applicant shall regularly attend the court

and cooperate the learned trial Court to complete the trial for the above offences. The applicant shall not seek adjournments, except under extreme circumstances to the satisfaction of the trial Court.

(iii) The applicant shall furnish his address and telephone/mobile number(s) to the Investigating Officer. The applicant shall not change the same without permission of this Court.

(iv) The applicant shall maintain law and order.

(v) The applicant shall not enter surrounding area and the disputed field.

(vi) In case of breach of any conditions, the learned trial court is at liberty to cancel the bail after giving opportunity of hearing to both the sides.

11. The Application is disposed of in the above terms.

JUDGE

Signed By: MUKUND
LAXMANRAO AMBULKAR
Private Secretary

Signing Date: 18.01.2023 16:41