

**IN THE COURT OF ADDITIONAL SESSIONS JUDGE, GONDIA.**

**SESSIONS TRIAL NO. 81/2017**

**State Vs. Akash & Ors.**

**ORDER BELOW EXH-19.**

(Passed on 09<sup>th</sup> January-2018)

1] Perused the application and say filed by APP alongwith charge-sheet. Heard learned counsel for the applicant and learned APP on behalf of the State.

2] It is the contention of learned counsel for the applicant that the applicant is innocent and falsely implicated in this case on the basis of false report lodged by complainant Rahul s/o Raju Dahat. A Persual of charge-sheet would show that statement of witnesses recorded in this case are contradictory to each other and prima facie shows that on the basis of false story created by the complainant Rahul the applicant has been arrested in this case. The so called recovery of muddemal knife at the instance of applicant is suspicious and doubtful as the same was seized on 30/5/2017 from open and heavy traffic public road. Apart, injured Rajat who is having criminal antecedent had himself attacked on the applicant by knife and during that attack the applicant sustained injury on his body but no offence was registered against Rajat. He submits that the other six accused persons, who are involved in this crime and having same role released on bail and thus the applicant is also entitled to be released on bail on the ground of parity. He urged that the applicant is sole bread earner in his family and since 24/5/2017 he is in Jail. His family members are dependant on him and suffering with starvation. The applicant is permanent resident of Gondia having immovable property and therefore there is no

possibility of his absconding. He is ready to abide by all the terms and conditions and ready to furnish surety to secure his presence. The investigation is completed and charge-sheet has been filed and hence now there is no reason to keep the applicant behind the bar.

3] Per contra, learned APP has opposed this application contending that the nature of offence allegedly committed by the applicant is serious in nature and there is prima facie evidence against him to show his involvement with this crime. The applicant is main accused in this case, who took other accused alongwith him to the house of complainant and assaulted injured Rajat by means of knife giving multiple knife blows on him. The other six accused persons assaulted Rajat and Rahul by iron rods and sticks. As per medical certificate placed on record Rajat sustained total 10 injuries on his person which are serious in nature and all the injuries were inflicted on the vital part of the body. He was admitted in the hospital for about two months. He submits that the role attributed to the applicant in this crime is different and not similar to the role attributed to the other six accused persons and therefore rule of parity is not applicable in this case and the applicant cannot be released on bail on the ground of parity. He submits that the applicant is having criminal antecedents and there is every possibility of tampering the witnesses at his hand and flee from justice. He urged that the statement of witnesses recorded in this case clearly shows that the applicant has attempted to kill injured Rajat by giving multiple blows of knife on him.

4] I have heard both the sides and gone through the charge-sheet. I find that offence u/sec. 147, 148, 149, 307, 323 and 506 of Indian Penal Code has been registered against the applicant

and other six co-accused on the basis of report lodged by the complainant Rahul s/o Raju Dahat, resident of Civil Lines, Gondia at City Police Station, Gondia vide Crime No. 255/2017. The allegations made against the applicant in First Information Report is that on 13/5/2017 at night time the applicant alongwith other six co-accused attacked the house of complainant Rahul s/o Raju Dahat when he was seeing Television at his home alongwith his mother, younger brother Golu and Rajat. The applicant and other six accused went to the house of complainant carrying with weapons like iron rods, sticks and knife etc. The applicant called complainant's brother by shouting “रजत बाहर निकल” and when Rajat and his family members came out of house the applicant said to Rajat that you have given information against him to the Police and therefore he had to reside in Jail for long time u/sec. 392 of IPC. Then the applicant started assaulting Rajat by knife and other six accused assaulted him by iron rods, sticks and due to that assault Rajat sustained multiple severe injuries and he was rushed to KTS hospital, Gondia and was admitted there for about 72 days. The medical certificate of Rajat placed on record reveals that he had sustained total 10 injuries including 8 incised wound and 2 stab injury caused by sharp object. The injuries No. 2, 3 and 6 were inflicted on the vital part of the body and other injuries were also grievous in nature. He was admitted on 14/5/2017 and was discharged on 14/7/2017. After looking to the nature of aforesaid injuries, it can be presumed at this stage that the intention of applicant was to kill Rajat. I find that the statement of witnesses recorded in this case are consistent to each other and prima facie shows the involvement of applicant in this crime. Further I find

that the Investigating Officer has seized muddemal knife at the instance of applicant as per his memorandum statement and seizure panchnama. I agree with the learned APP that there is prima facie evidence against the applicant at this stage to show that he assaulted injured Rajat by means of knife. To my mind since the role attributed to the present applicant is not similar to the role attributed to other co-accused, who are released on bail, the rule of parity is not applicable in this case and the applicant can not be released on the ground of parity. The contention of learned counsel for the applicant that the recovery of muddemal knife at the instance of applicant is suspicion and doubtful, to my mind cannot be considered at this stage and the same can be considered only during trial. Apart, I agree with the learned APP that there is possibility of tampering the witnesses at the hands of applicant and flee from justice after getting bail.

5] Thus, for the foregoing reasons and considering the nature and gravity of the offence and the prima facie evidence against the applicant, I do not think just and proper to enlarge the applicant on bail and hence accordingly the instant application stands rejected.

**Gondia.**  
Dated. 09/01/2018.

(S.R.Trivedi)  
Additional Sessions Judge,  
**Gondia.**