

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**NAGPUR BENCH, NAGPUR.****CRIMINAL APPLICATION (ABA) NO.680 OF 2017**

(Mohd. Yahiya S/o Mohd. Rizwan Patel..vs..State of Maharashtra, through
PSO.PS.Gittikhadan,Nagpur)

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

Court's or Judge's orders.

Shri A.M.Jaltare, Advocate for applicant.

Shri R.S.Nayak, A.P.P. for State-non-applicant.

CORAM : V.M. DESHPANDE, J.

DATED : SEPTEMBER 29, 2017

This is an application for pre-arrest bail.

2] Heard learned counsel for applicant and
learned A.P.P. for State-non-applicant.

3] The applicant is apprehending his arrest in
connection with Crime No. 525/2017, registered with
P.S.Gittikhdan, Nagpur, for the offence punishable under
Sections 143, 144, 145, 146, 147, 148, 149, 307 of the
Indian Penal Code and Section 135 of the Bombay Police
Act.

4] The crime is registered on the basis of report
lodged by Mohd. Jishan S/o Mohd. Mustaq Shaikh. The
crime is registered with P.S.Gittikhadan on 27/8/2017.
The perusal of the F.I.R. shows that the incident of
assault on 27/8/2017 on the first informant is fall out of
verbal dual that was ensued on earlier day, a day of the
Bakri-Id. According to F.I.R. and according to the
statement recorded by the investigating officer of one

Irphan Ulha Khan @ Khanu who according to the prosecution is an eye witness show that initially, applicant and others caught hold first informant. As per the prosecution case, actual assault by knife is by one Soheli who gave knife blow on neck and other knife blow by one Shahrukh on the left hand.

5] It is reported that Soheli and Shahrukh are already arrested.

6] The learned A.P.P. states that knife is already seized. The learned A.P.P. further invited my attention to the statement of first informant and statement of Irphan Ulha Khan that after the assault made by Soheli and Shahrukh the present applicant waved knife towards the first informant. It is not the prosecution case that by such on the part of the applicant any further injury was caused to the first informant.

7] In view of the role that is attributed against the present applicant and in view of the fact that the persons who gave actual knife blows are already arrested and they are in jail. In my view, the custodial presence of the applicant is not necessary.

8] It is also stated by the learned counsel for the applicant and the said statement is also not given by the learned A.P.P. that the present applicant is aged about 19 years and is a student and is not having any criminal past record. That leads me to pass the following order.

ORDER

- I) Application is allowed.
- II) In the event of arrest of applicant Mohd. Yahiya S/o Mohd. Rizwan Patel in Crime No. 525/2017, registered with P.S. Gittikhadan, Nagpur, for the offence punishable under Sections 143, 144, 145, 146, 147, 148, 149, 307 of the Indian Penal Code and Section 135 of the Bombay Police Act, he be released on bail on he executing P.B. of Rs. 25,000/- with one solvent surety in the like amount.
- III) The applicant shall attend P.S. Gittikhadan, Nagpur once in a week i.e. Sunday in between 3.00 to 5.00 p.m. till the chargesheet is filed.

Application is disposed of.

JUDGE