

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

CRIMINAL APPLICATION (ABA) NO.43/2018

Tausif Kha Jainulla Kha ..vs.. State of Maharashtra through PSO P.S.
Telhara, Dist. Akola

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

Court's or Judge's orders.

Mr. R. M. Daga, Advocate for applicant.
Mr. A. Madiwale, A.P.P. for non applicant-State.

CORAM : V.M. DESHPANDE, J.

DATED : JANUARY 31, 2018

1. Heard Mr. Daga, Advocate for applicant and
Mr. Madiwale, A.P.P. for non applicant-State.

2. This is an application for anticipatory bail
since the applicant is apprehending his arrest in
connection with Crime No.281/2017 registered with
Police Station Telhara, Dist. Akola for an offence
punishable under Sections 147, 148, 149 and 307 of the
Indian Penal Code.

3. This Court had had on 23.01.2018 granted ad
interim relief in favour of the applicant on a condition
that the applicant shall attend Police Station on
25.01.2018 and 27.01.2018 and shall be with the
investigating officer from 11.00 a.m. to 05.00 p.m.

4. The applicant submitted that as per the
directions by this Court, the applicant has attended the

police station. The said statement is not disputed by the learned A.P.P. Rather the learned A.P.P. submitted that on these two dates, the applicant has attended the Police Station as per the instructions given to him by the investigating officer. Further, he submitted that the weapon which was shown in the hand of the applicant in the FIR is also seized.

5. The FIR is lodged by one Abdul Muttahir Abdul Kadir. The injured is one Abdul Atahar who is his son. The date of incident is 12.11.2017. However, the FIR is lodged on 26.11.2017. Thus, there is delay of more than 12 days. Further, it is also an admitted position that there is a counter FIR filed in respect of the incident dated 12.11.2017 and the said was filed on the next day of the incident. Further, though the FIR of the incident shows the presence of the applicant along with knife in his hand, the FIR is totally silent that the applicant has given any knife blow to the injured. The role of assault is attributed against the co-accused persons.

6. In view of the accusations in the FIR, which shows no overt act against the present applicant and the applicant has already attended the Police Station, in my view, the applicant has made out a case for anticipatory bail.

In view of above, following order is passed.

ORDER

- (i) Criminal Application No. 43/2018 is allowed.
- (ii) Applicant Tausif Kha Jainulla Kha be released on bail in connection with Crime No.281/2017 registered with Police Station Telhara, Dist. Akola for an offence punishable under Sections 147, 148, 149 and 307 of the Indian Penal Code on he executing P.R. Bond in the sum of Rs.25,000/- with two solvent sureties in the like amount.
- (iii) The applicant shall attend Police Station, Telhara once in a month i.e. on third Saturday of every month till the filing of the chargesheet and shall remain with the investigating officer between 11.00 a.m. to 05.00 p.m.
- (iv) The applicant shall not tamper with the prosecution evidence and also shall not try to influence the prosecution witnesses.
- (v) The observations made in this order are prima facie in nature and they are made only for the purpose of deciding the present application for bail. The trial Court shall not get influenced by any of the observations made in the order.

The application is disposed of accordingly.

JUDGE