

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

CRIMINAL BAIL APPLICATION (BA) NO. 42 OF 2021

Kapil Ashok Rangari

..vs..

State of Maharashtra, thr. P.S.O.

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

Court's or Judge's orders

Shri Y.Y. Humne, Advocate for Applicant.
Ms.N.P. Mehta, A.P.P. for Respondent-State.

CORAM : VINAY JOSHI, J.
DATED : 17/03/2021

Hearing was conducted through Video Conferencing.

2. Heard.

3. The Applicant Kapil Rangari seeks for regular bail in terms of Section 439 of the Code of Criminal Procedure in Crime No.358 of 2020 registered at Police Station Kanhan, District Nagpur for the offence punishable under Sections 307, 333, 353 read with 34 of the Indian Penal Code and Section 4/25 of the Arms Act, 1959.

4. On 16.09.2020, Police Constable Vishal Shambharkar has lodged a report regarding the occurrence. He stated that on the date of occurrence, he learnt that police person namely Ravindra Chaudhary was assaulted by one Kamlesh Meshram by means of knife hence, he rushed to the Primary

Health Center where Ravindra Chaudhary was admitted. Informant Vishal Shambharkar learnt from injured Ravindra Meshram that, on 16.09.2020 around 8.30 pm assailant Kamlesh Meshram called him near Gahu Hiwara square under some pretext. At said place, Kamlesh Meshram was present with his brother, Aman Khan and one Dada Mule. There was oral altercation, in which Kamlesh Meshram dealt repeated knife blows at his stomach. After receiving said information, he went to Police Station and lodged a report.

5. Learned Counsel for the Applicant submits that the Applicant has been falsely implicated in the case. According to him, neither the Applicants' name was mentioned in the First Information Report nor he was present on the spot. It is submitted that, the allegation of assault by means of knife is against the co-accused Kamlesh Meshram. Lastly, it is submitted that injured Ravindra Chaudhary was discharged from the Hospital within couple of days and therefore, detention of the Applicant is not necessary. The State resisted the bail vide affidavit-in-reply. The entire prosecution case has been reiterated in the reply. It is contended that the Applicant was the member of unlawful assembly and deadly assault was made by one of the member of assembly in prosecution of their common object. It is contended that there are eye-witnesses to the incident, and the Applicant has bad criminal antecedents.

6. Perusal of First Information Report discloses that, Police Constable Vishal Shambharkar has lodged a report on the date of occurrence itself after learning the things from the injured Ravindra Chaudhary. The entire First Information Report nowhere states about the presence of the Applicant on the spot. The statement of injured Ravindra Chaudhary was recorded after two days while he was admitted in Wockhardt Hospital. The injured stated that on the date of occurrence, he had telephonically called the Applicant for making certain inquiry and went to the Applicant's place. It is his contention that the Applicant telephonically called Kamlesh Meshram who arrived within short time. The injured alleged that there was oral altercation, in which all the assailants including the Applicant beat him by fist blows. The injured started to run, on which Kamlesh Meshram and Aman Khan chased him and then Kamlesh Meshram dealt knife blows at his stomach. The entire statement of the injured assigns the limited role to the Applicant about quarreling and beating by fist blows. There are two eye witnesses who have stated that the Applicant has beaten injured by fist blows. The entire prosecution case itself is that Kamlesh Meshram assaulted the injured by means of knife. The only allegation against the Applicant is of quarreling with the injured and dealt fist blows.

7. Though learned Counsel for the Applicant has point towards variance in between the statement of

the informant and the injured, however, that will be seen at the time of trial. The prosecution case as it stands, only says about the role of the Applicant of beating the injured by fist blows. As per the prosecution case, when the injured started running, Kamlesh Meshram chased him and dealt knife blows. Therefore, whether the Applicant was having common intention or common object, requires examination after recording of evidence. Already, injured is discharged within couple of days from the occurrence and on completion of investigation, charge-sheet has been filed.

8. The State resisted bail also by pointing certain antecedents of the Applicant. It reveals that total six other offences have been registered against the Applicant. Bare perusal of chart discloses that those offences were under the Prevention of Gambling Act, Prohibit Act and some other offences under the Indian Penal Code. The Applicant has filed affidavit stating that he has been acquitted in two crimes whilst in Crime No.351 of 2015 he was not at all involved. Learned Counsel for the Applicant placing reliance on the decision of the Supreme Court in the case of ***Maulana Mohd. Amir Rashadi vs. State of U.P. and anr. 2012(1) SCC (Cri.) 681*** to submit that, merely on the basis of criminal antecedents the claim for bail cannot be rejected. Certainly, the entitlement of bail depends upon the variety of factors. Having regard to the nature of accusation, the role ascribed to the

Applicant and the stage of investigation, the Applicant has made out a case for grant of bail.

9. In view of that, following order is passed :

- (a) The Application is allowed.
- (b) The Applicant Kapil Ashok Rangari is released on bail on his furnishing P.R. bond of Rs.25,000/- with one or two sureties in the like amount.
- (c) The Applicant shall not tamper with the prosecution evidence nor pressurizing the prosecution witnesses in any manner.

JUDGE

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