

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

CRIMINAL APPLICATION (ABA) NO. 412 OF 2021

Saurabh s/o Suresh Shahu

..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 M.V. Rai, Advocate for applicant.

Shri H.D. Dubey, A.P.P. for non-applicant/State.

CORAM : VINAY JOSHI, J.

DATED : 30/07/2021

Hearing was conducted through Video Conferencing.

2. In anticipation of arrest in Crime No.139 of 2021 registered with Hudkeshwar Police Station, District Nagpur for the offence punishable under Section 307 read with 34 of the Indian Penal Code, the applicant/accused is prayed for pre-arrest bail.

3. The non-applicant/State resisted bail by reply-affidavit contending that the applicant/accused took active part in the assault and a stone used by the applicant is to be recovered.

4. At the instance of eye-witness namely Sonu Thapa, a Crime was registered. It is alleged that at the time of occurrence, accused no.1 Kundan assaulted injured Atif by means of stone on head and co-

accused Sonu Shaikh assaulted Atif by means of knife. It is also alleged that there was one unknown assailant who also dealt Atif by means of knife.

5. Learned Counsel appearing for the Applicant took me through the statement of injured, wherein the injured nowhere stated that unknown assailant assaulted him by means of knife. The injured had stated that co-accused Kundan dealt knife blows whilst remaining two beaten by sticks. The third version of another eye-witness Amit is pointed out, wherein there are general allegations that one of them dealt knife blows and others beaten by stone.

6. Both co-accused are arrested and after custodial interrogation, they are released on bail. It emerges from reply that the knife allegedly used in the crime was seized from co-accused Sonu Shaikh. As per prosecution, custodial interrogation is necessary to recover the stone. The alleged incident is dated 11.03.2021 and therefore, the reason of recovery of stone does not carry any weight. Already investigation is complete and charge-sheet has been filed against co-accused.

7. I do not find any substantial reason to allow custodial interrogation of the applicant/accused. The purpose would be served, if, he is directed to co-operate with the investigation. Hence, the following

order :

- (a) The application stands allowed.
- (b) In the event of arrest the Applicant/Accused Saurabh s/o Suresh Shahu in connectiong with Crime No.139 of 2021 registered with Hudkeshwar Police Station, District Nagpur for the offence punishable under Section 307 read with 34 of the Indian Penal Code, be released on interim bail on his furnishing P.R. bond of Rs.25,000/- with one or two sureties in the like amount.
- (c) The Applicant/accused shall attend concerned Police Station on every Sunday in between 11.00 am to 02.00 pm for the period of six months from today.
- (d) The Applicant/Accused shall co-operate with the Investigating Agency.
- (e) The Applicant/accused shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case, as also shall not tamper with the evidence.

JUDGE