

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

**CRIMINAL APPLICATION (BA) 894 OF 2021**

(Abhijit @ Sunil s/o. Ajay Pahune...vs.. The State, thr PSO, PS Imamwada, Nagpur)

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

*Court's or Judge's orders.*

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Mr. Uday Dable, counsel for applicant.  
Mr. N.R. Rode, APP for non-applicant /State.

**CORAM: ROHIT B. DEO, J.**  
**DATE:09.09.2021.**

Heard.

2. The applicant is seeking bail in connection with Crime 243/2020, registered with Police Station, Imamwada, Nagpur, for offences punishable under sections 143, 147, 148, 307, 504, 506(B) of Indian Penal Code ("IPC"), sections 5/25 of the Arms Act and section 135 of Bombay Police Act.

3. The crime is registered on the basis of report dated 25.5.2020, lodged by Mr. Ashish Raut, who is attached to Police Station, Dhantoli, as driver.

4. While I do not consider it appropriate to evaluate

the material on record minutely, since brief reasons will have to be indicated for the ultimate order, it is noted that even according to Mr. Ashish Raut, there was a physical altercation between group of which the applicant was a part and the first informant and his friends/relatives. The issue was that the applicant and his friends perceived that the first informant was attempting to seduce an intellectually challenged girl at 11.30 p.m. on 24.5.2020. The role attributed to the applicant in the assault is that he used fists blows. The report then alleges that the informant's close relative Mr. Prashant Patil, Mr. Manish Patil, Mr. Akshay Patil and Mr. Kamlesh Patil arrived at the scene and attempted to intervene and co-accused Ankush Khobragade inflicted sword blow on the right hand of Mr. Manish Patil and the applicant Sunil and other accused assaulted the informant, Mr. Prashant Patil, Mr. Akshay Patil and Mr. Kamlesh Patil with wooden sticks and plank.

5. The learned APP Mr. N.R. Rode invites my attention to the statement of Mr. Manish Patil, who is the only person seriously injured. Mr. N.R. Rode points out that

according to Mr. Manish Patil, it was the applicant, who fetched two swords, handed over one sword to Ankush and retained the other. Similar are the statements of the other witnesses, is the submission of Mr. N.R. Rode. The incident occurred on 24.5.2020. Neither the report nor the statements of the witnesses which are immediately recorded, illustratively, the statements which are recorded on 25.5.2020 make any reference to the applicant having fetched two swords etc. The statements to which my attention is drawn by Mr. N.R. Rode, are recorded on 5.6.2020. Even in the statements belatedly recorded, there is no allegations that the applicant dealt any sword blow which has caused injury.

6. The learned counsel for the applicant Mr. Uday Dable submits that co-accused, who have played a more prominent role in the assault, illustratively Ankush, who dealt the sword blow to the right hand of Mr. Manish Patil, are released on bail.

7. Mr. Uday Dable appears to be right in the

submission that co-accused who have played a more prominent role in the assault, are released on bail. The learned Additional Sessions Judge-4, Nagpur, who rejected applicant's application seeking bail, noted that the applicant was externed as he is habitual offender and that during the operation of the externment order, he indulged in the offence alleged. The learned Additional Sessions Judge then notes that there are twenty eight criminal cases pending against the applicant. The reference to twenty eight criminal cases appears to be an error since even according to the Crime Chart, there are eight offences registered against the applicant, and four are under section 65-E of the Prohibition Act, the fifth is for possessing prohibited arm, the sixth is on the allegation that there was a preparation of dacoity and the only offence which involves causing bodily injury, is under section 323 IPC. However, the learned Additional Sessions Judge is right in noting that the offence is committed while an externment order was in force. It is the adverse antecedents of the applicant which appears to have heavily weighed with the learned Additional Sessions Judge. As noted supra, co-accused

Ankush Khobragade, who played more prominent role in the assault and who dealt the sword blow, is released on bail.

8. The apprehension of the prosecution that the applicant has propensity to indulge in crime, is not unfounded. The applicant has indulged in the crime while he was supposed to be away from Nagpur. However, considering that the applicant is relatively young and was then aged 20 years, I am inclined to grant bail subject to extremely stringent conditions.

9. In all fairness to the learned counsel Mr. Uday Dable, considering the apprehension of the prosecution that the applicant would be in a position to influence the witnesses and would indulge in further crime if granted bail, an assurance is given that during the pendency of the trial, the applicant shall reside within the territorial limits of the Gadchiroli District. I am satisfied that this assurance, which is treated as undertaking, is sufficient to allay the apprehension of the prosecution.

10. The application is allowed subject to the following conditions:

(i) The applicant be released on bail in connection with Crime 243/2020, registered with Police Station, Imamwada, Nagpur, for offences punishable under sections 143, 147, 148, 307, 504, 506(B) of Indian Penal Code (“IPC”), sections 5/25 of the Arms Act and section 135 of Bombay Police Act, on executing PR bond of Rs. 16,000/- (Rupees Sixteen Thousand) with one solvent surety of the like amount;

(ii) Till the conclusion of the trial, the applicant shall reside within the territorial limits of the Gadchiroli District and needless to say, shall not enter the territorial limits of Nagpur City except to attend the Court hearing, and that too after giving prior notice and information to Police Station, Imamwada, Nagpur. It is abundantly made clear that even a single breach of this condition shall entail cancellation of bail, if an appropriate motion is moved;

(iii) While on bail, the applicant shall not indulge in any criminal activity and breach of this condition shall also entail in cancellation of bail, if an appropriate motion is moved;

(iv) The applicant shall, within 48 hrs of his release, furnish to the Investigating Officer his cellphone numbers and the details of the address at Gadchiroli where the applicant would be residing. The applicant shall further keep the Investigating Officer updated of any change. Breach of this condition shall entail cancellation of bail;

(v) The applicant shall attend the jurisdictional Police Station at Gadchiroli every Monday from 11.00 a.m. to 1.00 p.m. and shall obtain acknowledgment of attendance in a diary separately maintained for that purpose, of the concerned police station and breach of this condition also shall entail cancellation of bail, if an appropriate motion is moved.

**Judge**