

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

CRIMINAL APPLICATION (BA) NO.89 OF 2022

Anna @ Alimalai Mani Malaikoravan

Vs.

The State of Maharashtra through Police Station Officer, Police Station, Majari
Dist. Chandrapur

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

Court's or Judge's orders

Mr. S. V. Sirpurkar, Advocate for applicant.
Mr. A. R. Chutke, APP for non-applicant/State.

CORAM : AVINASH G. GHAROTE, J.

DATE : 25/02/2022

1. Heard Mr. Sirpurkar, learned counsel for the applicant and Mr. Chutke, learned APP for non-applicant/State.

2. The applicant is arraigned for the offence punishable under Sections 397, 382, 353, 333, 326, 379, 511 read with Section 34 of the Indian Penal Code. The incident is dated 03.09.2021 at 2.45 a.m. The applicant has been arrested on 03.09.2021. The charge-sheet has been filed on 29.10.2021.

3. Mr. Sirpurkar, learned counsel for the applicant submits that the applicant has been arrested merely on the basis of suspicious and linkage. Even the test identification parade was conducted one month after the arrest. There is no seizure from the applicant and no overt act is attributed to him. Considering that the

charge-sheet has been filed, the applicant be released on bail.

4. Mr. Chutke, learned APP for non-applicant/State does not dispute that the identification parade has been conducted one month after the arrest of the applicant and there is no recovery from the applicant, so also no overt act is attributed to him, however, his motorcycle has been found near the spot. The weapons one knife has been seized from the co-accused Shaharukh and one blade has been seized from the other co-accused Tushar. It is also contended that the applicant has criminal antecedent in as much, one case under the Bombay Prohibition Act is pending against him.

5. The incident has occurred at 2.30 a.m. on 03.09.2021, when the Security Guard of Majari Colony Mr. Avinash Maroti Dhagadi, upon hearing the noise of some metal being cut went to the spot and found three persons cutting cables. Upon a shout being raised, those persons ran away, however, as the other security guard on the gate namely, Akash Pipre was already intimated, he tried to obstruct their escape and in turn received injuries on his hands. The applicant is arrested on 03.09.2021 merely on the basis of suspicion of his motorcycle having been found nearby spot. There is also considerable delay in the test identification parade which has been conducted nearly one month after the date of arrest, so also no overt act is attributed to the

applicant and the seizure of the weapons is from the other accused, considering which, I do not see any reason to continue the further incarceration of the applicant, as the charge-sheet is filed on 29.10.2021. Hence, the following order.

ORDER

(i) The applicant be released on bail for the offence punishable under Sections 397, 382, 353, 333, 326, 379, 511 read with Section 34 of the Indian Penal Code in Crime No.189 of 2021, on his furnishing PR bond in the sum of Rs.50,000/- (Rupees Fifty Thousand only) and one surety of like the amount.

(ii) The applicant shall not tamper with the prosecution evidence nor shall attempt to unduly influence them in any manner.

(iii) The applicant shall attend each and every date before the learned Sessions Court and shall not commit any other offence whatsoever.

(iv) Any violation of any of these conditions shall result in cancellation of bail.

JUDGE

Sarkate