

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

CRIMINAL APPLICATION (BA) NO. 134/2022
Sanket Arvind Gajbhiye ...Versus...State of Maharashtra

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

Court's or Judge's orders

Mr. PR.Agrawal, Advocate for the applicants.
Ms. Shamsi Haider, APP for respondent/State

CORAM : AVINASH G. GHAROTE, J.

DATE : 23/02/2022

1] Heard Mr. Agrawal, learned advocate for the applicant.

2] The applicant has been arraigned for the offence under Sections 307, 452 r/w Section 34 of the IPC and Sections 4 and 25 of the Arms Act, in Crime No. 2/2022. The incident is dated 3.1.2022, The applicant was arrested on 6.1.2022, a PCR was granted for 7.1.2022 and since thereafter the applicant is in MCR.

3] Mr. Agrawal, learned counsel for the applicant submits that the applicant has no role to play in the matter, in as much as it is alleged that the assault has been by Aniket, Avinash and Vicky inside the house of the victim and the only role attributed to the applicant is standing outside the house on a motor cycle after having locked the front door.

The allegation regarding locking of door is made by the victim, which according to him is not believable, considering his state of mind at the time of the incident. He therefore submits that the applicant be released on bail.

4] Learned APP opposes the application and submits that though no assault is attributed to the applicant, his presence outside the house and being an accessory to the escape of the co-accused, is witnessed by Pushpa Charan Bansod and therefore, the involvement of the applicant cannot be denied. It is submitted that the investigation is still going on and there is every possibility of the applicant interfering the same, if released on bail.

5] The case diary indicates that on 3.1.2022 at about 4.15 p.m, the co-accused Aniket, Vicky and Avinash had entered into the house of the victim and had assaulted him with weapons, during which time the mother of the victim who was not in the house came back and raised a cry, due to which the aforesaid assailants escaped. The only role attributed to the applicant is standing outside the house, and of opening the front door as per the statement of the witness Pushpa Charan Basod and no assault is attributed to him, considering which, as the applicant has been arrested on 6.1.2022, I do not see any reason to further continue his incarceration. The apprehension expressed by the learned

APP can be taken care of by putting stringent conditions.
Hence the following order.

6] The application is allowed.

The applicant be released on bail for the offence under Sections 307, 452 r/w Section 34 of the IPC and Sections 4 and 25 of the Arms Act, in Crime No. 2/2022, on his furnishing PR Bond of Rs. One Lakh and two solvent sureties of the like amount.

The applicant shall also fully co-operate with the prosecution and shall attend Police Station Bandera on every Monday and Thursday between 10.00 a.m. to 2.00 p.m. till the filing of charge-sheet and shall obtain acknowledgment of his such attendance in a separate diary from the concerned Police Station.

The applicant shall till the filing of the charge-sheet, except for the aforesaid dates on which he is directed to attend the Police Station, Badnera, shall reside outside the jurisdiction of Police Station Badnera and shall not violate this condition in any manner whatsoever. Any single violation shall result in cancellation of the bail.

The applicant shall not direct or indirectly tamper with the prosecution evidence or try to influence the witnesses in any manner.

On the charge sheet being filed, the applicant shall attend each and every date before the learned Sessions Court and shall ensure that the trial is not hampered or protracted on his count in any manner.

JUDGE

Rvjalit