

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

CRIMINAL APPLICATION (BA) NO. 304 OF 2022

Vijay Punjaji Kamble

...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. H.M.Mohta, Advocate for the applicant.
Ms. T.H.Udheshi, APP for non-applicant/State

CORAM : AVINASH G. GHAROTE, J.

DATE : 19/04/2022

1] Heard Mr. Mohta, learned counsel for the applicant and Ms. Udheshi, learned APP for non-applicant/State.

2] The applicant is arraigned for the offence under Sections 307, 143, 147, 148 r/w Section 149 of the IPC in Crime No. 127/2022, registered with the Washim City Police Station. The incident is dated 14.02.2022 at around 9.00 p.m. in Baba Bar. The applicant who is the night manger of the bar has been arrested on 15.02.2022. The investigation is still in progress.

3] Mr. Mohta, learned counsel for the applicant submits that the antecedents of the complainant Bhushan Shripad More would indicate that he is a person who is prone to commit crime. He invites my attention to three FIRs filed

against the complainant Bhushan More, namely Crime Nos. 165/2020, 721/2020 and 725/2020, all lodged by the wife of the applicant Smt. Sangita Vijay Kamble and Crime No. 128/2022 lodged by the applicant. It is further submitted that in the aforesaid incidents, the applicant who was the manager of Baba Bar was managing the affairs of the bar in the night, when the complainant had walked into the Bar and had created a ruckus in which the applicant was not involved. There is no seizure from the applicant and therefore the applicant is entitled for bail.

4] Learned APP opposes the application, contending that the incident had taken place and the Katta by which the complainant has been assaulted has been seized from the spot. That apart, there is a seizure of the blood stained clothes of the applicant also. She further submits that since the investigation is going on, the applicant should not be released on bail, otherwise there are chances of his tampering the prosecution witnesses or unduly trying to influence them. It is also submitted that the co-accused Sudan Kamble has been released on anticipatory bail by this court by an order dated 30.03.2022 (pg 55) that by itself is no ground for release of the present applicant, considering his role in the matter.

5] The case diary indicates that on 14.02.2022 at about 9.00 p.m., the complainant Bhushan Shripad More had

been to Baba Bar for consumption of liquor, in which there erupted a verbal duel between the complainant and the applicant, in which it is alleged that the applicant had assaulted the complainant with a Katta (a longish knife) and one Patte Bahadur, the waiter had assaulted the complainant with a sword. It is also alleged that the applicant had taken the sword from Patte Bahadur and had also assaulted the complainant with it.

6] A perusal of the case diary indicates that there are glaring contradictions between the statements of the complainant dated 14.2.2022 and 26.3.2022. In the statement dated 26.3.2022, there is absolutely no mention regarding any assault by any sword, either by Patte Bahadur or the applicant, on the contrary the statement dated 14.2.2022 speaks otherwise. The statement of Dilip Mahadeo Ambhore indicates that the complainant was the instigator of the verbal duel and also had first assaulted the waiter namely Dilip Ambhore and had also broke open the freezer & the bottles kept inside. Though the assault is attributed to Vijay Kamble, the applicant by a Katta upon the complainant on his head and body, the injury report merely indicates minor incised wounds upon the skull and below the left ear. However, there is an injury in the nature that the right little finger has been cut off. In the statement dated 26.3.2022, the complainant himself admits that his earlier statement dated 14.2.2022 was incorrect, in so

far as it attributed assault by Bharat Sudan Kamble, Sanjay Ingle and Patte Bahadar and three other unknown persons.

7] Considering the contradictory statements made by the complainant and so also the admission by the complainant himself and the fact that the complainant himself was the instigator and had been to the Bar and had raked out the verbal duel which has led to the incident, in my considered opinion a case for bail is made out. However considering the apprehension expressed by the learned APP, the same has to be on conditions. Hence the following order.

O R D E R

[I] The application is allowed.

[II] The applicant be released on bail in Crime No. 127/2022 registered for the offence under Sections 307, 143, 147, 148 r/w Section 149 of the IPC with the Washim City Police Station on his executing PR bond in the sum of Rs.75,000/- and two solvent sureties of like amount.

[III] The applicant shall not tamper with the prosecution witnesses or try to unduly influence them directly or indirectly in any manner whatsoever.

[IV] The applicant till the charge-sheet is filed shall attend the concerned Police Station on every Monday and Thursday between 10.00 a.m. to 12.00 noon and shall render all cooperation to the investigating agency, till the filing of the charge-sheet.

[V] Except on the aforesaid days, when the applicant is directed to attend the concerned Police Station, the applicant shall not enter the jurisdiction of Police Station Washim City, till the filing of the charge-sheet.

[VI] The applicant shall after the filing of the charge-sheet attend each and every date before the learned trial Court and shall ensure that the trial is not protracted on his count.

[VII] Any violation of any of the conditions above shall result in cancellation of bail.

JUDGE

Rvjalit