

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

CRIMINAL APPLICATION (BA) NO.332 OF 2022

Naim @ Sayed Mustaqim Sayed Rahim
Vs.

State of Maharashtra, Through Police Station Officer, P.S. Deulgaon (Raja) Tq.
Deulgaon (Raja) District Buldana

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

Court's or Judge's orders

Mr. A. J. Thakkar, Advocate for applicant.
Mrs. Mayuri Deshmukh, APP for non-applicant/State.

CORAM : AVINASH G. GHAROTE, J.
DATE : 29/04/2022

Heard Mr. Thakkar, learned counsel for the applicant and Mrs. Deshmukh, learned APP for non-applicant/State.

2. The applicant has been arraigned for the offence punishable under Sections 307, 324, 323, 143, 147, 148, 149, 504 and 506 of the Indian Penal Code and Section 135 of the Maharashtra Police Act, in Crime No. 3/2022.

3. Mr. Thakkar, learned counsel for the applicant submits, that all the accused in the present crime except applicant have been released on bail. He further submits, that accused no.1 Sk. Atik, from whom the knife in question has been recovered and to whom the assault by way of knife on the left side of back below armpit the victim, has been attributed, has also

been released by the learned Sessions Court, by its order dated 31.03.2022. The role of the present applicant is lesser than that of Sk. Atik, inasmuch as the assault by way of a knife on the thigh, has been attributed to him. The only reason, why the bail application of the present applicant, was rejected was on account of threat being given by him, that the next time the victim would be eliminated. He therefore contends, that considering the circumstances, the applicant is entitled for bail.

4. The application is opposed by learned APP for the non-applicant/State, who by inviting my attention to the statements of witnesses namely Wajid Khan (pg. 54), Mukhtar Khan (pg. 55), Sk. Anwar Hayad Bagwan (pg.56), Sk. Anwar Sk. Ali (pg. 57) and Mobin Pathan (pg.58) submits, that the witnesses are consisting in attributing an assault by the applicant to the complainant/victim on his thigh. He further submits, that in case the applicant be released, in view of the threat given by him, there is heavy possibility of danger to the life of the complainant, and therefore, the application be rejected.

5. The record indicates, that the main accused Sk. Atik Sk Umar, to whom the assault on the complainant by way of a knife on the left side back below, the armpit of the complainant has been released on bail. So also Sk. Sadik Sk. Umar, to whom an assault

by an iron rod on the head of the complainant is attributed has also been released on bail. The role attributed to the applicant is of taking the knife from the hands of Sk. Atik Sk. Umar and assaulting the complainant/victim on the thigh, which indicates, that the role of the applicant is of a lesser extent than of Sk. Atif Sk. Umar, who has been released on bail. No doubt, that the applicant has threatened the complainant/victim of eliminating him, however, the same can be addressed by putting stringent conditions. Hence, the following order.

ORDER

- (i) The application is allowed.
- (ii) The applicant be released on bail in Crime No.3/2022, registered with Police Station, Deulgaon (Raja), for the offences punishable under Sections 307, 324, 323, 143, 147, 148, 149, 504 and 506 of the Indian Penal Code and Section 135 of the Maharashtra Police Act, on his executing P.R. bond in the sum of Rs.1,00,000/- (Rupees One Lakh) with two solvent sureties of the like amount.
- (iii) The applicant shall not, directly or indirectly make any attempt to influence the witnesses or otherwise tamper with the evidence.
- (iv) The applicant shall not enter the territorial limits of Tahsil Deulgaon Raja, during the course of the trial.
- (v) The applicant shall remain present each and every date before the learned Sessions Court during the course of trial and shall ensure that the trial is not protracted on his count.
- (vi) The applicant shall not indulge into any criminal activity while on bail.

(4)

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(vii) Violation of any of these conditions shall result in cancellation of bail.

JUDGE

Sarkate