

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

CRIMINAL APPLICATION (ABA) NO.295 OF 2022

Abdul Akil S/o Abdul Samad

Versus

State of Maharashtra, through P.S.O., P.S. Badnera & A.G.P., Amravati

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

Court's or Judge's Order

Shri Raheel Anwar J. Mirza, Advocate for the applicant.

Shri V.A. Thakare, A.P.P. for the non-applicant/State.

CORAM : ANIL S. KILOR, J.

DATED : 05/05/2022

1. The applicant is seeking pre-arrest bail in Crime No.135 of 2022, dated 16.02.2022, registered with Police Station Badnera, District Amravati (City), for the offences punishable under Sections 307, 323, 326 and 504 read with Section 34 of the Indian Penal Code. The applicant is the accused No.3 and father of the accused Nos.1, 2 and 4.

2. Shri Mirza, learned counsel for the applicant submits that there was a quarrel between the youngsters and the applicant had no role in the alleged offence. However, he has been falsely implicated in the alleged offence. It is submitted that though the allegation is that he was holding axe and gave blow the head of the complainant, no correspondence injury is there, which sufficiently show that

the applicant has been falsely implicated in the alleged offence.

3. Lastly, he submits that the weapon including the axe allegedly used in the alleged offence have already been seized and recovered by the Police. The learned counsel for the applicant therefore, submits that custodial interrogation of the applicant is not necessary and as far as clothes, which they want to recover from the applicant, are concerned the applicant is ready to give it to the Police.

4. On the other hand, Shri Thakare, learned APP opposes the present application and submits that the offence is serious. The injury report corroborates the prosecution story. He submits that there are eye witnesses to the incident.

5. I have perused the Case Diary and also the contents of the First Information Report (FIR).

6. The weapon including the axe allegedly used in the offence have already been seized and recovered by the Police. The investigation is almost completed. The accused Nos.1, 2 and 4 are in jail for last 75 days. The applicant is the father of the accused Nos.1, 2 and 4. *Prima facie* the quarrel took place between the youngsters, though it is alleged that the applicant was holding axe and he gave blow

on the head of the complainant. *Prima facie* no correspondence injury is found in the Injury Report.

7. In the circumstances, for the purpose of recovery of clothes, the custody of the applicant is not necessary and that can be recovered during the deemed custody of the applicant. In the circumstances, I am of the opinion that the applicant is entitled for grant of pre-arrest bail. Hence, I pass the following order:

- a) The criminal application is **allowed**.
- b) It is directed that in the event of arrest of the applicant in Crime No.135 of 2022, dated 16.02.2022, registered with Police Station Badnera, District Amravati (City), for the offences punishable under Sections 307 323, 326 and 504 read with Section 34 of the Indian Penal Code, the applicant shall be released on bail on furnishing P.R. Bond of Rs.15,000/- with one solvent surety in the like amount.
- c) The applicant shall attend the concerned Police Station on 11, 12, 13 and 14th May, 2022 between 09.00 a.m. to 12.00 noon. The same shall be considered as deemed custody for

recovery of clothes on the applicant. Thereafter, as and when his presence is required.

- d) The applicant shall not tamper with the prosecution witnesses.
- e) The applicant shall not leave the jurisdiction of the concerned Police station without permission of the Court.

The criminal application is **disposed of**, accordingly.

[ANIL S. KILOR, J.]