

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

Criminal Application (BA) No. 641 of 2022

Vaibhav S/o Premraj Bhandari

Versus

State of Maharashtra, through Police Station Officer, Police Station Civil
Lines, Akola

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

Court's or Judge's Order

Shri R.M.Daga, Advocate for the applicant.

Shri T.A.Mirza, APP for the State / Non-applicant

CORAM : ANIL S. KILOR, J.

DATED : 6th JULY, 2022.

The applicant is seeking bail under Section 439 of the Code of Criminal Procedure in Crime No. 926 of 2021 registered with Police Station Civil Lines, Akola for the offence punishable under Section 302 read with Section 34 of Indian Penal Code.

2. Shri Daga learned counsel for the applicant submits that if the allegations made in the First Information Report are perused, no overt act namely of giving knife blows is attributed against the applicant. He further submits that mere presence of the applicant at the spot will constitute any offence.

3. He submits that two juvenile offenders and one Rushikesh Sanje who are the main accused have inflicted knife blows on the abdomen of the deceased and even from postmortem report it can be seen that there were three stab injury and one abrasion. He, therefore, submits that considering the role of the applicant in the alleged offence, his custody is no more required.

4. He lastly argues that after completion of investigation, the chargesheet has been filed and as such he prays for grant of bail.

5. On the other hand, learned Additional Public Prosecutor strongly opposed the application.

6. I have perused the chargesheet and the First Information Report.

7. Postmortem report shows that there were three stab injuries and one abrasion. If the allegations are considered couple with the above injuries, *prima facie* it can be seen that three stab injuries were caused because of two juvenile offenders and one co accused Rushikesh Sanje. There are no allegations that the applicant inflicted any blow by knife or stabbed the victim. The only allegation against the applicant is that he assaulted the deceased.

8. Applicant is in jail since December 2021 and investigation is over. Thus, considering the role of the applicant, I am of the opinion that further custody of the applicant is not necessary.

9. Moreover, as there is nothing to show that if the applicant is released on bail, he will not be available for trial. In the circumstances, I am of the opinion that the applicant shall be released on bail by putting some stringent conditions. Accordingly, I pass the following order.

- i. Criminal application is allowed;
- ii. It is directed that the applicant shall be released on bail in Crime No. 926 of 2021 registered with Police Station Civil Lines, Akola for the offence punishable under Section 302 read with Section 34 of Indian Penal Code, on furnishing P.R.Bond of Rs.25,000/- with a solvent surety in the like amount.
- iii. The applicant shall not enter into territorial jurisdiction of Akola city till the culmination of trial, except for trial.
- iv. The applicant shall furnish current address proof to the concerned Police Station.
- v. The applicant shall attend the Police Station Kopari, Dist. Thane on 1st and 16th day of every month

between 10 am to 12 noon till the conclusion of the trial.

vi. The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case, as also not tamper with the evidence;

vii. State is at liberty to apply for cancellation of bail in case the applicant commits similar offence.

[ANIL S. KILOR, J.]

SACHINDANAND
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