

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

CRIMINAL APPLICATION (ABA) NO.434 OF 2022

Yogesh @ Barky S/o Manohar Jadiye

Versus

State of Maharashtra, through P.S.O., P.S. Achalpur, Tah. Achalpur, Dist. Amravati

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

Court's or Judge's Order

Shri Mohd. Amin Memon, Advocate for the applicant.

Shri A.M. Kadukar, A.P.P. for the non-applicant/State.

CORAM : ANIL S. KILOR, J.

DATED : 01/07/2022

1. The applicant is seeking pre-arrest bail in Crime No.142 of 2022, dated 18.04.2022, registered with Police Station Achalpur, District: Amravati (Rural), for the offences punishable under Sections 143, 147, 148, 149, 353, 332, 186 and 427 of the Indian Penal Code and Section 135 of the Maharashtra Police Act, 1951.

2. Shri Memon, learned counsel for the applicant submits that the names of the accused persons were mentioned in the First Information Report, on the basis of personal information of the complainant.

3. It is pointed out that the complainant stated in the report that he knows many person in the City of Achalpur and he saw the applicant on the date of the

incident. It is further pointed out that the name of one Danish Abdul Rahman also featured in the First Information Report. However, on the date of incident he was in hospital. Medical documents of Danish Abdul Rahman are filed along with ABA No.320 of 2022. He therefore, submits that such First Information Report cannot be made basis for taking away the liberty of the applicant. Accordingly, he prays for grant of pre-arrest bail.

4. On the other hand, Shri Kadukar, learned APP strongly opposed the application and submits that offence is serious and the custodial interrogation is necessary.

5. I have perused the case diary and also contents of the First Information Report.

6. In the First Information Report, the complainant who is a Police Sub-Inspector states that he personally knows many persons in the City of Achalpur and therefore, he can states the name of the accused persons who were present at the time of incident. On the basis of the complainant's information, the names of accused persons were arraigned.

7. However, one of the accused namely Danish Abdul Rahman, who is accused no.14, was hospitalized on 8th April, 2022 and was discharged on 26th April, 2022.

The incident is dated 18th April, 2022. The above facts can be verified from the medical document of Danish Abdul Rahman.

8. Nothing has been pointed out that the accused no.14 and the person who was hospitalized during the period of 8th April, 2022 to 26th April, 2022 namely Danish Abdul Rahman are not the same but different persons.

9. The above referred discrepancies *prima facie* creates doubt about the veracity of the contents of the First Information Report, particularly about the presence of applicant at the time of incident.

10. Moreover, there is no other evidence available on record to show the involvement of the applicant in the alleged offence. Thus, I am of the opinion that the applicant is entitled for grant of pre-arrest bail. Accordingly, I pass the following order.

- a) The criminal application is **allowed**.
- b) Order passed by this Court on 24.06.2022, granting *ad interim* anticipatory bail, is confirmed with modification that the applicant

shall attend the concerned Police Station as and when his presence is required.

- c) The applicant shall not tamper with the prosecution witnesses.
- d) 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.]