

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

Criminal Application (ABA) No.438/2022

Akash Chauhan V State of Maharashtra thr PSO PS Ladkhed, Yavatnal

Office notes, Office Memoranda of
 Coram, appearances, Court's orders
 or directions and Registrar's orders.

Court's or Judge's Orders

Shri Atharva S. Manohar, Advocate for applicant.

Shri T.A. Mirza, APP for State.

CORAM : ANIL S. KILOR, J.

DATE : 11-07-2022

The applicant has approached to this Court by filing the present application under Section 438 of the Code of Criminal Procedure for grant of anticipatory bail in connection with Crime No.0211/2022 dated 23-05-2022 registered with Police Station Ladkhed, District Yavatmal for the offence punishable under Section 324 of the Indian Penal Code.

2. Learned Counsel for the applicant submits that there is an old rivalry between the family of the applicant and sons of the complainant and the present FIR is the outcome of the same.

3. He further points out that the victim and his brother are in habit of lodging false complaint against the applicant or his relatives.

4. It is pointed out that the sessions case in connection with Crime No.51/2017, which was registered at the instance of Shrawan Suryabhan Pawar, the maternal uncle of the applicant against the victim and his brother Rajesh, is now fixed for framing of charge and keeping in view of the fact that the trial is going to commence, the present FIR came to be lodged to falsely implicate the applicant.

5. The learned Counsel for the applicant has drawn attention of this Court to the report of Police Station Officer, Police Station Ladheda, District Yavatmal, on a complaint made by the brother of the victim against the maternal uncle of the applicant. He submits that the said report dated 23-02-2022 and order of Sub Divisional Magistrate, dated 01-04-2022, on the said report, show that the victim and his brother are in habit of making false complaint against the applicant and his family.

6. He further submits that earlier the offence was registered under Section 324 of the IPC, whereas, subsequently Section 326 of the IPC has been added which will not attract in this case, as there is no grievous injury caused to the victim, as defined under Section 320 of the IPC. Accordingly, he prays for grant of pre-arrest bail.

7. On the other hand, learned APP strongly opposes the application and submits that there is a mention of a head injury, in

injury report of the victim which corroborates the prosecution story. He, thus, submits that considering the seriousness of offence, the pre-arrest bail may not be granted to the applicant.

8. I have perused the case diary, application and the reply of the learned APP.

9. From the application and the documents filed along with the applicant, prima facie, it appears that there is a rivalry between the family of the applicant and complainant's sons.

10. Crime No.51/2017 was registered at the instance of the maternal uncle of the applicant against both the sons of the complainant. Further, the report of Police Station Officer, dated 23-02-2022 on a complainant lodged by the brother of victim against the maternal uncle of the applicant and present FIR show that there are complaints filed by both the parties against each other. The present FIR came to be lodged by the mother of the victim on the basis of hearsay information.

11. Further, considering the fact that the victim was hospitalized for three days which fact shows that the injury was not grievous. Moreover, as nothing is to be recovered from the applicant, custodial interrogation of the applicant is not necessary. Thus, I am of the view that imposition of stringent condition would serve the purpose. Accordingly, I pass the following order:-

ORDER

- i) Application is allowed.
- ii) In the event of arrest of the applicant in Crime No.0211/2022 dated 23-05-2022 registered with Police Station Ladheda, District Yavatmal for the offence punishable under Section 324 of the Indian Penal Code, the applicant be released on bail on furnishing P.R. Bond of Rs. 25,000/- with one solvent surety in the like amount.
- iii) The applicant shall attend the concerned Police Station on 18-07-2022, 19-07-2022, 20-7-2022 and 21-07-2022 between 10.00 am to 12.00 noon and thereafter as and when his presence is required.
- iv) The applicant shall not enter into the territorial jurisdiction of Yavatmal District till the filing of chargesheet except for attending the Police Station.

(Anil S. Kilor, J.)