

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

Criminal Application (BA) No.794/2022

Nihal Sarsiya V State of Maharashtra thr PSO PS Digras, Yavatmal

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

Court's or Judge's Orders

Shri A.M. Jaltare, Advocate for applicant.
 Mrs. Shamsi Haider, APP for State.

CORAM : ANIL S. KILOR, J.
DATE : 14-07-2022

The applicant has approached to this Court by filing the present application under Section 439 of the Code of Criminal Procedure for grant of bail in connection with Crime No.1280/2021 dated 09-11-2021 registered with Police Station Digras, District Yavatmal for the offences punishable under Sections 143, 147, 148, 149, 323, 324, 326, 307, 302 and 395 of the Indian Penal Code and Section 4, 25 of the Arms Act, 1959.

2. The learned Counsel for the applicant submits that after completion of the investigation, the chargesheet has been filed and no further custody of the applicant is necessary.

3. The learned Counsel for the applicant further submits that there are counter FIRs and FIR lodged by the Ranjana Sohan Sirsiya who is the wife of one of the co-accused in present FIR, the offence was registered under Sections 143, 147, 148, 149, 323,

324, 326, 307 and 395 of the Indian Penal Code and Section 4, 25 of the Arms Act. The said crime was registered against 53 accused persons.

4. He further submits that, except the applicant all other accused persons have been released on bail, even the main accused no.1 is already released bail.

5. Lastly, the learned Counsel for the applicant points out from the statements of the witnesses that the only allegation against the present applicant is that, he gave blow by iron rod on the thigh of Mohd Abid Mohd Fazal. Accordingly, he prays for grant of bail on parity.

6. On the other hand, learned APP strongly opposes the application and submits that sufficient material is collected by the Investigating Agency to show the involvement of the applicant in the alleged offence. She further submits that there is a recovery of iron rod. She further points out that consequently Section 302 of the Indian Penal Code was added. Accordingly, she prays for rejection of the application.

7. I have perused the chargesheet and also the contents of the FIR.

8. The Investigating Agency has filed chargesheet on completion of investigation. There are counter FIRs making similar allegations against each others. In view of the fact that, the

chargesheet has already been filed, the custody of the applicant is no more required.

9. Furthermore, the applicant is entitled for grant of bail on the ground of parity as the co-accused i.e Raj @ Dhanjay s/o Dilip Sarsiya was granted bail vide order dated 14-06-2022, in the same offence.

10. Moreover, there is nothing to show that there is any possibility that the applicant would pressurize the prosecution witnesses or tamper with the prosecution evidence or he will not be available for the trial, if he is granted bail. Accordingly, I pass the following order:-

ORDER

- i) Application is allowed.
- ii) The applicant in Crime No.1280/2021 dated 09-11-2021 registered with Police Station Digras, District Yavatmal for the offences punishable under Sections 143, 147, 148, 149, 323, 324, 326, 307, 302 and 395 of the Indian Penal Code and Section 4, 25 of the Arms Act, 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 as and when his presence is required.

- iv) The appellant shall not leave the jurisdiction of the concerned Police Station without permission of the Court.
- v) 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.
- vi) Liberty is granted to the State that in case the applicant repeats the similar offence, the State may file application for cancellation of the bail.

(Anil S. Kilar, J.)