

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

Criminal Application (BA) No. 801 of 2022

Ashish S/o Yashwant There

Versus

State of Maharashtra, through Police Station Officer, Police Station
Warora, Dist. Chandrapur

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

Court's or Judge's Order

Shri A.S.Ambatkar, Advocate for the applicant.

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

CORAM : ANIL S. KILOR, J.

DATED : 27th JULY, 2022.

The applicant is seeking bail under Section 439 of the Code of Criminal Procedure in Crime No. 625 of 2021 registered with Police Station Warora, Dist. Chandrapur for the offence punishable under Section 307 read with Section 34 of Indian Penal Code.

2. Learned counsel for the applicant submits that injuries found on the person of Amol Borkute were simple in nature, whereas the injuries found on the person of Prashant Zhade were of grievous in nature. It is submitted that the applicant is in jail since 13th August, 2021. It is further pointed out that after

completion of investigation, the chargesheet has been filed and further custody of the applicant is not necessary.

3. It is further pointed out that there are no criminal antecedents to the discredit of the applicant. Accordingly, he prays for grant of bail.

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

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

6. In this case the investigation is completed and the chargesheet has been filed.

7. Injured namely Amol Borkute was hospitalized for one day and nature of injuries were simple in nature, whereas, injured namely Prashant Zhade was hospitalized for 16 days in a private hospital because of grievous injuries.

8. There is no likelihood that the trial will commence in near future. Moreover, while allowing the first application to withdraw on 27th January, 2022, this Court has granted liberty to the applicant to move a fresh application after five months. It is informed that after withdrawal of the said application, till date the charge is not framed in the present case.

9. Thus, considering the material available on record and the fact that further custody of the applicant is not necessary because the chargesheet has been filed, I am of the opinion that keeping the applicant in jail for uncertain period particularly when there is no likelihood that the trial will commence in near future, it would amount to pre-trial punishment. In the circumstances, I am of the opinion that the applicant is entitled for grant of bail.

10. As far as the apprehension of the learned Additional Public Prosecutor that if the applicant released on bail, he may pressurize the prosecution witness, the said apprehension can be addressed 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. 625 of 2021 registered with Police Station Warora, Dist. Chandrapur for the offence punishable under Section 307 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 the territorial jurisdiction of Warora Police Station till culmination of the trial.

iv. The applicant shall provide his address and name of Police Station, which he shall attend on 1st and 16th of each month between 10 am to 12 noon till culmination of trial, except for trial.

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 to tamper with the evidence;

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

[ANIL S. KILOR, J.]

SACHINDANAND
K NAIR

Digitally signed
by
SACHINDANAND
K NAIR
Date: 2022.07.27
18:11:12 +0530