

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

CRIMINAL APPLICATION (BA) NO.822 OF 2022

Sunil Eknath Kadu

Versus

State of Maharashtra, through P.S.O., P.S. Rajapeth, Tah. & 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 P.M. Pande, Advocate for the applicant.

Shri S.D. Sirpurkar, A.P.P. for the non-applicant/State.

CORAM : ANIL S. KILOR, J.

DATED : 04/08/2022

1. The applicant is seeking bail in Crime No.1164 of 2021, dated 11.09.2021, registered with Police Station Rajapeth, District: Amravati, for the offences punishable under Sections 395, 397, 353 and 332 of the Indian Penal Code and Section 135 of the Maharashtra Police Act.

2. Shri Pande, learned counsel for the applicant submits that the applicant is in jail from 11.09.2021 and as his son is involved in various criminal activities, he has been falsely implicated in the alleged offence.

3. Shri Pande, learned counsel for the applicant submits that there is no criminal antecedents to the discredit of the applicant and only on the basis of recovery of knife from the applicant, he has been arraigned as accused in the present case.

4. He lastly argues that the charge-sheet has been filed and further custody of the applicant is not necessary. He therefore, submits that considering the clean past history of the applicant, this Court may release the applicant on bail.

5. On the other hand, Shri Sirpurkar, learned APP strongly opposes the present application and submits that the offence is serious and as the witnesses Naresh Dattatray Mohril, Sagar Shashikant Sardar, Vikas Gulabrao Gudaghe and Chotelal Ramlal Yadav have disclosed the name of the applicant, there is sufficient material to show the involvement of the applicant in the alleged offence.

6. I have perused the Charge-sheet and the First Information Report (FIR).

7. The statements of witnesses namely Chotelal Ramlal Yadav, Vikas Gulabrao Gudaghe, Sagar Shashikant Sardar, Naresh Dattatray Mohril were recorded on 13.09.202. All these witnesses are working in police department and were member of police squad, who intercepted the accused persons on the night of 10.09.2021. These statements show that the same were recorded after three days of the incident. Though, they are the staff members of the police squad who intercepted accused persons, it appears that the statements were recorded

belatedly on 13.09.2021 which creates doubt about discloser of name of the name of the applicant, in the backdrop that there are not antecedent against the applicant and no reason shown recording the statements belatedly considering the position of the witnesses.

8. Except these statements and recovery of knife, there is nothing incriminating against the applicant.

9. In the said backdrop, it is also relevant to see where there are any criminal antecedents to the discredit of the applicant and on a specific query put to the learned APP, he has fairly stated that, as far as the present applicant is concerned, there are no criminal antecedents against the applicant.

10. Thus, considering the fact that there is no criminal antecedents to the discredit of the applicant and further the applicant is in jail from about one year, I am of the opinion that the applicant is entitled for grant of bail. Furthermore reason to grant bail is that the investigation is over and considering the material collected by the police against the applicant, I am of the opinion that his further custody is not necessary. Accordingly, I pass the following order:

- a) The criminal application is **allowed**.

- b) It is directed that the applicant shall be released on bail in Crime No. 1164 of 2021, dated 11.09.2021, registered with Police Station Rajapeth, District: Amravati, for the offences punishable under Sections 395, 397, 353 and 332 of the Indian Penal Code and Section 135 of the Maharashtra Police Act, on furnishing P.R. Bond of Rs.25,000/- with one solvent surety in the like amount.
- c) The applicant shall attend the concerned Police Station on every 1st and 16th of each month between 10.00 a.m. to 12.00 noon, till the culmination of the trial.
- d) The State is at liberty to apply for cancellation of bail, if the applicant commits same offence or serious offence.
- e) The applicant shall not tamper with the prosecution witnesses.

The criminal application is **disposed of** accordingly.

[ANIL S. KILOR, J.]