

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

Criminal Application (BA) No. 870 of 2022

Ankit S/o Tarachand Ramteke

Versus

State of Maharashtra, through Police Station Officer, Police Station
Ballarsha, Tahsil and District Chandrapur

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

Court's or Judge's Order

Shri Mahesh Rai, Advocate for the applicant.

Shri S.D.Sirpurkar, APP for the State / Non-applicant

CORAM : ANIL S. KILOR, J.

DATED : 10th August, 2022.

The applicant is seeking bail under Section 439 of the Code of Criminal Procedure in Crime No. 0101 of 2022 registered with Police Station Ballarsha for the offence punishable under Section 307 read with Section 34 of Indian Penal Code.

2. Shri Rai, learned counsel for the applicant submits that, mainly the allegations in the First Information Report against one Niranjana who is the accused no.1 and there are no overt acts attributed to the applicant. However, after more than one month, in a statement given to the police, the complainant

improvised his statement and attributed some over act against the applicant. He therefore, submits that considering the fact that, no over act is attributed to the applicant in the First Information Report, the applicant may be released on bail.

3. He further submits that the investigation is over and the chargesheet has been filed. He further points out from the injury report that all the three injuries caused to the complainant are simple in nature and therefore the offence under Section 307 of Indian Penal Code would not attract in this case. Accordingly, he prays for grant of bail.

4. On the other hand, learned Additional Public Prosecutor has strongly opposed the application and he has drawn attention of this Court to the statement recorded on 1st March, 2022 of Sharukh Sherkhan Pathan, who is the complainant and therefrom he points out that specific role is attributed to the applicant. Accordingly, he prays for rejection of the present application.

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

6. In the First Information Report, no overt act is attributed against the applicant, whereas, the allegations are only against the accused no.1.

7. However, first time in the statement dated 1st March, 2022, recorded after more than one month of the incident, it is stated that, the applicant is the main accused who inflicted blows by broken beer bottle, on the abdomen of the complainant and thereafter the accused no.1 gave blows by the same broken beer bottle. This improvised version of the complainant creates doubt about veracity of the allegations made against the applicant.

8. In addition to the same, in this case the investigation is over and the chargesheet has been filed. Thus, considering the fact that further custody of the applicant is not necessary and in the above referred backdrop, I am of the opinion that applicant is entitled for grant of bail. 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. 0101 of 2022 registered with Police Station Ballarsha, 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 attend the concerned police station on 1st day of every month between 9 am to 10 am till the culmination of the trial;
- iv. 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;
- v. State is at liberty to apply for cancellation of bail in case the applicant commits similar offence.

[ANIL S. KILOR, J.]

SACHINDANAND
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by
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Date: 2022.08.11
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