

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

CRIMINAL APPLICATION (BA) NO. 1048 OF 2022

Sayyed Parwez Ali s/o Samsher Ali **Versus** State of Maharashtra, through PSO Nandanvan, Dist. Nagpur.

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

Court's or Judge's Order

Shri R.K. Tiwari, Advocate for the applicant.

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

CORAM : ANIL S. KILOR, J.
DATED : 21/09/2022

1. The applicant is seeking bail in connection with Crime No. 591 of 2021 registered with Police Station Nandanvan, District: Nagpur, for the offences punishable under Sections 395, 386, 307, 323, 324, 427, 504 of the Indian Penal Code, read with Section 135 of the Maha. Police Act and Sections 3(1)(ii), 3(2), 3(4) of the M.C.O.C. Act.

2. In this crime, though the offence is registered under Section 307 of the Indian Penal Code, considering the injuries mentioned in injury reports at Page Nos. 149 and 152 of the record book, it can be seen that two injuries of simple nature were found on the person of Sheikh Aifaz Sheikh Aslam and one stab injury of simple nature on the person of Soheli Ali Kadar Ali. Thus, considering both the injuries, *prima-facie* it is doubtful whether Section 307 of Indian Penal Code would apply in this case.

3. Similar is the position in respect of offence under Section 395 of the Indian Penal Code as from the

allegations made in the FIR, it is doubtful whether Section 395 of the Indian Penal Code will apply in this case.

4. Thus, considering the overall evidence collected by the investigating officer, during the investigation, there is a reasonable ground that the applicant is not involved in the alleged offence, more particularly, in view of the role attributed to the applicant.

5. As far as the antecedents are concerned, out of two cases, in one case he was acquitted and the other case does not fall in the category of similar case or commonality. Thus, there is a reasonable ground that, if the applicant is released on bail he will not commit the similar offence.

6. In the circumstances, even though the learned APP is opposing the present application on the ground that if the applicant is released on bail, he may pressurize the prosecution witnesses, I am of the opinion that, it can be addressed, if some stringent conditions are imposed while granting bail. Accordingly, I pass the following order:

- a) The criminal application is **allowed**.
- b) It is directed that in connection with Crime No. 591 of 2021, registered with Police Station Nandanvan, District: Nagpur, for the offences punishable under Sections 395, 386, 307, 324, 323, 427, 504 of the Indian Penal Code read with Section 135 of the Maharashtra Police Act and Section 3(1)(ii), 3(2), 3(4) of the

Maharashtra Control of Organized Crimes Act, 1999 (MCOC Act), the applicant shall be released on bail on furnishing P.R. Bond of Rs.20,000/- with one solvent surety in the like amount.

- c) The applicant shall not enter into the territorial jurisdiction of Nagpur City, Dist. Nagpur, till the culmination of the trial, except for trial.
- d) The applicant shall provide his address along with name of the nearby Police Station and shall attend the concerned Police Station on 1st and 16th day of each month between 10.00 a.m. to 12.00 noon, till the culmination of the trial.
- e) The applicant shall not tamper with the prosecution witnesses.

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

[ANIL S. KILOR, J.]