

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

Criminal Application (BA) No. 1097 of 2022

Suchit Raviprakash Chahande

Versus

The State of Maharashtra, through Police Station Officer, Police Station
Sonegaon, 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 S.R.Dube, Advocate for the applicant.

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

CORAM : ANIL S. KILOR, J.

DATED : 26th SEPTEMBER, 2022.

The applicant is seeking bail under Section 439 of the Code of Criminal Procedure in Crime No. 30 of 2021 registered with Police Station Sonegaon, Dist. Nagpur (City) for the offence punishable under Sections 302, 307, 323, 143, 147, 148, 149 of Indian Penal Code, Section 4, 25 of the Arms Act, 1959 and Section 135 of the Maharashtra Police Act, 1951.

Shri Dubey learned counsel for the applicant is seeking bail on the principles of parity, as this Court has granted bail to two co-accused persons, who are similarly circumstanced with the applicant.

3. It is submitted that this Court has observed in the orders granting bail to the co-accused that except the belated statement of the eye witness, which was recorded after about one month of the incident, there is no material to show the involvement of the said accused persons in the alleged crime.

4. It is further submitted that accused Mayur has used weapon against the deceased, whereas the applicant has assaulted by fist and kick blows.

5. It is pointed out that as there is nothing to show against the applicant, except the said belated statement, the criminal antecedents will loose the relevance in this case. Accordingly, he prays for grant of bail.

6. On the other hand, Shri Sirpurkar learned APP strongly opposes the application on the ground of criminal antecedents against the applicant. He further submits that as the offence is serious, this Court may not grant bail to the applicant.

7. I have perused the charge sheet, the contents of the First Information Report (FIR) and the orders passed by this Court granting bail to the co-accused, Govind Dongre and Vishal Gondane.

8. From the statement, which was recorded on 20.03.2021 i.e. after about one month from the date of

the incident, it can be seen that the role attributed to the present applicant, is similar with the role attributed to the co-accused to whom bail has been granted by this Court. The applicant is similarly circumstanced with those two co-accused, who have been released on bail.

9. The Hon'ble Single Bench of this Court while granting bail in Criminal Application (BA) No.977 of 2021, has observed thus:

“3. The case of the prosecution is that the backdrop of the deadly assault was Nilesh Naidu threatened Mayur Sherekar since Nilesh Naidu perceived that Mayur Sherekar was an impediment in securing bail for his friend Kharat. Insofar as the applicant is concerned, the only material on record is the statement of Mr. Shubham Jagdale who claims to have witnessed the incident from some distance and who named the applicant as one of the six accused who all assaulted Nilesh Naidu with sharp edged weapons. This statement is recorded nearly one month after the date of the incident.

4. Learned Additional Public Prosecutor Mrs.Kalyani Deshpande does not refute the submission of learned counsel Mr. Tiwari that other than the said belated statement, there is no material whatsoever to implicate the applicant in the crime.”

10. Considering the above referred observations, which are equally applicable to the case of the applicant, as he is similarly circumstanced, even though there are criminal antecedents against the applicant, namely two

cases under Sections 323 of IPC and one case under Section 307 of the IPC, this Court cannot deny bail to the applicant.

11. Co-accused Mayur has used weapon against the deceased, whereas the applicant has assaulted by fist and kick blows, therefore, the case of the applicant is in better footing than the case of the applicant. Accordingly, the applicant is entitled for grant of bail and I pass the following order:

- i) The Criminal Application is allowed.
- ii) It is directed that applicant shall be released on bail in Crime No.30 of 2021 dated : 23.02.2021, registered with Police Station : Sonegaon District : Nagpur (City), for the offence punishable under Sections 302, 307, 323, 143, 147, 148, 149 of the Indian Penal Code, Sections 4, 25 of the Arms Act, 1959 and Section 135 of the Maharashtra Police Act, 1951, on his furnishing P.R. Bond of Rs.25,000/- with a solvent surety in the like amount
- iii) 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.

iv) The applicant shall not leave the country without permission of the jurisdictional Court.

v) Liberty is granted to the State to apply for cancellation of bail, in case, the applicant repeats the offence or commits any serious offence.

[ANIL S. KILOR, J.]

SACHINDANAND
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