

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

CRIMINAL APPLICATION (BA) NO. 1118 OF 2022

Sheikh Moin S/o Sheikh Mahemood

Versus

State of Maharashtra, through Police Station Officer, Police Station
Nandanwan, Nagpur

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

Court's or Judge's Order

Shri D.V.Chauhan, Advocate for the applicant.

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

CORAM : ANIL S. KILOR, J.

DATED : 28th NOVEMBER, 2022.

1. Heard.

2. The applicant is seeking bail under Section 439 of the Code of Criminal Procedure in Crime No.592 of 2021 registered with Police Station Nandanwan, Nagpur for the offences punishable under Sections 307, 143, 147, 148 and 149 of Indian Penal Code read with Sections 3(1)(i)(ii), 3(2) and 3(4) of the Maharashtra Control of Organized Crime Act, 1999.

3. As per the prosecution case, the report was registered at the behest one Salma Khatoon Khan on 25th October, 2021 wherein she alleged that on 24th October, 2021 she was at her residence. At around 10.30 pm her son went out of the house. After some time, she found that few people were trying to climb the staircase of her house. She also witnessed that those five to six persons were holding knife and sword. After some time those unknown persons left the spot. Informant received a phone call and she was informed that few assailants assaulted Bhola with sharpened edged weapons and he was hospitalized at Seven Star Hospital. Then informant went to hospital and met friends of injured Bhola. At that time, Pranav Choudhari and Bhavya Nagture informed her at around 10:45 p.m. Bhola was sitting near Darshan Colony. At that time Sheikh Javed, Tanvir Ali, Sohail Ali, Vicky Farkunde, Sheikh Aslam came there and quarrel took place. During that quarrel Sheikh Javed assaulted Bhola with sharpened edged weapon. Thereupon, the above referred crime was registered.

4. After going through the First Information Report and the chargesheet, it can be seen that there are fourteen accused persons and as per the statement of

injured Bhola, accused Sheikh Javed, Sharukh Kasai and Nandu gave blow by knife, whereas other eleven accused persons including the applicant assaulted him. As far as the present applicant is concerned, except general statement that he assaulted the injured there is no specific role attributed him.

5. If the statement of Bhole is taken into consideration, no corresponding injuries found on his person in the injury report. There are three stab injuries with abrasion in both legs and wound over right lumbar region. The statement of the injured Bhola discloses the author of the stab injury and excluding stab injury there are only abrasion in both the feet. No specific overt act against the applicant is attributed.

6. In addition to this, *prima facie* there is nothing on record to show that the applicant is a member of the organized crime syndicate. Furthermore, there are no criminal antecedents against the applicant. In these circumstances, there is a reasonable ground to believe that *prima facie*, the applicant is not guilty of the alleged offence and further there is no possibility that he may repeat the offence if

he is released on bail. In the circumstances, I pass the following order:

- i. The criminal application is allowed.
- ii. It is directed that the applicant shall be released on bail in Crime No. 592 of 2021 registered with Police Station Nandanwan, Nagpur for the offences punishable under Sections 307, 143, 147, 148, 149 of Indian Penal Code read with Sections 3(1)(i)(ii), 3(2) and 3(4) of the Maharashtra Control of Organized Crime Act, 1999, on furnishing P.R. Bond of Rs.25,000/- with one solvent surety in the like amount;
- iii. The applicant shall attend the concerned Police Station as and when his presence is required;
- iv. The applicant shall not tamper with the prosecution witnesses;
- v. The applicant shall not leave the jurisdiction of the concerned Police Station without permission of the Court.

[ANIL S. KILOR, J.]

SACHINDANAND
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