

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

CRIMINAL APPLICATION (ABA) NO.674 OF 2022

Hitesh Rajendra Shriwas .Vs. State of Maharashtra, through P.S.O., P.S.
Awadhutwadi, Tq. & Dist. Yavatmal

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

Court's or Judge's Order

Shri Imran Deshmukh, Advocate for the applicant.

Shri S.M. Ghodeswar, A.P.P. for the non-applicant/State.

CORAM : ANIL S. KILOR, J.
DATED : 04/10/2022

Heard.

2. The applicant is seeking pre-arrest bail in Crime No.788 of 2022, registered with Police Station Awadhutwadi, District: Yavatmal, for the offences punishable under Sections 143, 146, 147, 148, 149, 307, 323, 294 and 506 of the Indian Penal Code.

3. In this case, the prosecution story is that, on the date of incident all the accused persons came in front of the house of the complainant and they were shouting, at that time, the brother of the complainant- Ajay had asked them as to why they had come there and why they were shouting. Thereupon, accused No.9 had assaulted the brother of the complainant- Ajay with knife on his head. The co-accused Mudassar also assaulted the complainant

with kicks and fist blows. It is alleged that, other accused also assaulted and abused in filthy language.

4. There is no specific role or overt act attributed to the applicant. Moreover, though Section 149 of the Indian Penal Code, is applied *prima facie* it appears that the incident occurred spontaneously and it was not premeditated and therefore, it is doubtful whether Section 149 of the Indian Penal Code, would attract in this case.

5. Thus, considering the role of the applicant in the alleged offence and the fact that, there is a doubt whether Section 149 would apply in this case, though the learned APP is opposing the present application, I am of the opinion that the applicant is entitled for grant of bail. Accordingly, I pass the following order:

- a) The criminal application is **allowed**.
- b) It is directed that in the event of arrest of the applicant in Crime No.788 of 2022, registered with Police Station Awadhutwadi, District: Yavatmal, for the offences punishable under Sections 143, 146, 147, 148, 149, 307, 323, 294 and 506 of the Indian Penal Code, the applicant shall be released on bail 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 as and when his presence is required.
- d) The applicant shall not tamper with the prosecution witnesses.

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

JUDGE