

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

CRIMINAL APPLICATION (ABA) NO.853/2021

Kunal S/o. Sharadrao Sapre Vs. State of Maharashtra

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

Court's or Judge's orders

Mr. Raju Kadu, Advocate for Applicant.
Mr. S. D. Sirpurkar A.P.P. for Non-applicant/State.
Mr. Vivek Awachat, Advocate Assist to Prosecution.

CORAM : SURENDRA P. TAVADE, J.

DATE : 14/01/2022.

1. This is an application for pre-arrest bail under Section 438 of the Code of Criminal Procedure in connection with crime No.1046/2021 registered with Awdhutwadi Police Station for the offences punishable under Sections 307, 341, 294 and 506 of the Indian Penal Code (IPC).

2. It is contended that one Harshawardhan Deshmukh lodged report with Awdhutwadi Police Station on 14.11.2021 at about 7.32 p.m. It is alleged in the First Information Report that on 14.11.2011 at about 1.00 to 1.30 p.m., the applicant came out of his vehicle along with iron rod and assaulted the informant on his head. It is further alleged that the applicant attempted to assault informant on his head again, but he dodged the attempt, he received injury on his eye. Thereafter, he lodged report. It is contended that the incident occurred in a road rage. There was no intention of applicant to kill the informant. It is contended that the informant was driving his vehicle recklessly without taking care of the traffic on road. The applicant is a Government

Contractor. On the day of incident, he was taking his parent to his house. His father was discharged from the hospital after operation. There are no criminal antecedents at the discredit of the applicant. It is contended that the investigation is almost over. The custodial interrogation of the applicant is not required. Therefore, it is prayed that the applicant be released on bail.

3. The notice of this application was issued to the non-applicant. The learned Additional Public Prosecutor filed reply. Similarly, the original complainant has also filed his reply and objected the application.

4. It is contended that the informant had sustained injury in the incident and he was admitted in the hospital. The injury sustained by the informant is grievous in nature and it is on vital part of the body. It is contended that the investigation is in progress. The friend of informant was present in the car. He helped the informant. His statement is also recorded in the case. The Investigation is in progress, therefore, the application be rejected. Similar contentions are raised by the complainant.

5. Heard learned counsel for the applicant, learned A.P.P. and learned counsel for the informant/complainant.

6. The learned counsel for the applicant vehemently submitted that the applicant is a Government Contractor. He hails from good family. The incident had taken place on a spur of the moment. There was no intention of applicant to

cause injury to the informant. The mother of the applicant has also filed complaint against the informant. But the police have not taken cognizance of the same. It is submitted on behalf of the applicant that the informant was discharged from the hospital on the very day. The injury sustained to him is simple in nature. Therefore, on this count also the investigation is not required. Hence, it is prayed that the applicant be released on bail.

7. The learned A.P.P. has submitted that it is a case of road rage. Therefore, necessary order be passed.

8. Perused the First Information Report. There are specific allegations against the applicant that the applicant overtook the car of informant and stopped it. Thereafter, he alighted from the car along with iron rod and assaulted the informant. The informant avoided first blow, even second blow also he tried to avoid, but it was landed on his head near the right eye.

9. On perused the medical certificate, it appears that the informant has sustained injury on his eye. The said injury appears to be simple in nature.

10. The learned counsel for the applicant also submits that the arrest of the applicant is not necessary. To substantiate this point, he has relied upon the ratio laid down in the case of ***Arnesh Kumar Vs. State of Bihar And Another*** reported in ***(2014) 8 SCC 273*** wherein the Hon'ble Apex Court has issued a direction to Police Officers that they shall

not arrest the accused unnecessarily and Magistrate shall not authorise detention casually and mechanically.

11. In the present case, the offence leveled against the applicant is serious in nature. It appears from the record that the applicant came out of his car and assaulted the informant by iron rod. The said facts are impliedly admitted by the mother of applicant in her complaint dated 16.11.2021, wherein she has stated that there was quarrel between the applicant and the informant. Thereafter, the applicant assaulted the informant by iron rod without any intention. It appears that it is a road rage, but it further appears that the applicant was aggressive. He came out of the car with the weapon and assaulted the informant. Informant sustained injury over his eye. For some period his sight was blurred. Therefore, it cannot be said that the offence is simple in nature. The weapon of assault is required to be recovered. Therefore, in my opinion, the custodial interrogation of the applicant is required for recovery of weapon, if any. Thus, a case is not made out by the applicant for pre-arrest bail. Hence, I pass the following order.

The application is rejected.

(SURENDRA P. TAVADE, J.)