

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

CRIMINAL APPLICATION (BA) NO. 1230 OF 2022

Shri Shubham S/o. Vishwajit Sikhdar

.vs.

The State of Maharashtra

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

Mr D. R. Galande, Advocate for the applicant

Mr S. D. Sirpurkar, APP for State

CORAM : G.A. SANAP, J.

DATE : NOVEMBER 17, 2022.

The applicant/accused No. 3, who was arrested with his co-accused on 22.08.2022 in Crime bearing No. 878 of 2022 for the offences punishable under Sections 307, 367 read with Section 34 of the Indian Penal Code and Section 135 of the Bombay Police Act, 1951 registered at Ram Nagar Police Station, Chandrapur, has made this application for bail under Section 439 of the Code of Criminal Procedure.

2. It is stated that the applicant has been falsely implicated in this crime. No specific role has been attributed to him. The injuries sustained by the victim in the alleged incident are simple injuries. He has been discharged from the Hospital. The offence under Section 307 has not been made out. The investigation is almost over. He has been remanded to judicial custody. His detention is not necessary either for

investigation or for custodial interrogation. He is ready to co-operate the investigating officer. He is ready to abide by the conditions that may be imposed by this Court at the time of his release on bail. According to the applicant, he is therefore entitle for bail.

3. The State through investigating officer has filed reply and opposed the application. It is stated that the crime committed by the applicant/accused No.3 with the co-accused is serious in nature. Investigation is at preliminary stage. Multiple injuries were caused by dangerous weapon to victim - Rakesh by all the accused. The possibility of the applicant threatening the Rakesh and witnesses cannot be ruled out.

4. I have heard the learned Advocate for the applicant/accused No. 3 and the learned APP for the State. Perused the record and proceedings.

5. It has been stated in para No. 4 of the reply that the injuries sustained by Rakesh are simple injuries. The crime was registered on 22.08.2022. No categorical statement has been made in the reply with regard to filing of charge-sheet. In any case, the investigating officer would be required to file charge-sheet within a period of 90 days, in case the

prosecution wants that the applicant should not be released on default bail. The period of 90 days would expire in weeks time. It has not been stated in the reply that for one reason or the other the detention of the applicant would be necessary. The only ground forcefully pleaded in the reply, for denial of bail, is possibility of tampering with the prosecution evidence and the serious nature of the crime. In my view, considering the nature of the incident mentioned in the First Information Report and the nature of the injuries being simple it would not be desirable to keep the applicant/ accused No. 3 in jail for indefinite period. In the fact situation, his incarceration in the jail may amount to pre-trial conviction. The applicant/ accused No.3 has made out a case for grant of bail. The apprehension placed on record in the reply by the prosecution can be taken care of by imposing appropriate conditions. The apprehension cannot be made sole ground to reject the bail application. Hence, the following order.

- i] The Criminal application is allowed.
- ii] It is directed that applicant -Shubham S/o. Vishwajit Sikhdar shall be released on bail in connection with Crime No. 878 of 2022, registered with Ram Nagar Police Station, Chandrapur, for the offences punishable under Sections 307, 367 read with Section 34 of the Indian Penal Code and Section 135 of the Bombay Police Act, 1951 on furnishing P.R. Bond in the sum of Rs.25,000/- (Rupees Twenty Thousand only) with one surety in the like amount.

iii] The applicant shall not in any way tamper with the prosecution evidence.

iv] The applicant shall not pressurize or threaten the prosecution witnesses.

v] The applicant shall attend the concerned police station on every Monday and Saturday between 7:00 p.m. and 9:00 p.m. till filing of the charge-sheet.

vi] The applicant shall co-operate the investigation officer.

The application stands **disposed of**, accordingly.

(G. A. SANAP, J.)

Namrata