

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

Criminal Application (BA) No. 1231 of 2022

Sagar S/o Vikramsingh Bagga

Versus

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

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

Court's or Judge's Order

Shri R.K.Tiwari, Advocate for the applicant.

Shri V.A.Thakare, APP for the State / Non-applicant

CORAM : ANIL S. KILOR, J.

DATED : 1st DECEMBER, 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 for the offence punishable under Sections 143, 147, 148, 149, 302, 307, 323, 120-B and 201 of Indian Penal Code, Sections 4, 25 of the Arms Act, 1959 and Section 135 of the Maharashtra Police Act, 1951.

2. In this case, applicant is seeking regular bail on parity and it is submitted that case of the applicant is on a better footing than the case of co-accused Mayur

who has already been released on bail by this Court vide order dated 2nd August, 2022 in Criminal Application (BA) No.823 of 2022 in the case of Mayur Sherekar Vs. State of Maharashtra. While granting bail to the co-accused Mayur, this Court has observed as under:

7. 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.

8. 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.”

9. 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.

3. Learned Additional Public Prosecutor is not disputing that the role of the applicant is similar with the co-accused who has already been released on bail. In that view of the matter, I pass the following order.

- i. The 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.

The application is accordingly disposed of.

[ANIL S. KILOR, J.]

SACHINDANAND
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