

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

Criminal Application [ABA] No.891 of 2021

Shaikh Saqlain Shaikh Mobin

vs.

The State of Maharashtra, through P.S.O. Yavatmal City

*Office notes, Office Memoranda of
 Coram, appearances, Court's orders
 or directions and Registrar's orders.*

Court's or Judge's Orders

*Mr. V.D. Awchat, Advocate for the Applicant.
 Mr. S.D. Sirpurkar, A.P.P. for the Non-Applicant/State.*

CORAM : SURENDRA P. TAVADE, J.

DATE : 13th JANUARY, 2022.

This is an application for releasing the applicant on pre-arrest bail in Crime No.695/2021, registered with Police Station Yavatmal City for the offences punishable under Sections 143, 144, 147, 148 and 307 read with Section 149 of the Indian Penal Code.

02] The informant, who is brother-in-law of the applicant, has filed F.I.R. on 29/08/2021, wherein he alleged due to matrimonial discord, his wife namely Nahid Anjum Rizwan Ali was residing in her paternal house. The informant is having a son and a daughter out of said wedlock. After settlement between the parties, the wife of informant came to matrimonial house. There were frequent quarrels between them prior to lodging of F.I.R.

03] On 29/08/2021 at about 12:00 a.m., the informant told his wife that she should look after his father. Over this issue, quarrel took place between the informant

and his wife. Thereafter, the wife of the informant called her relatives from parental house. The applicant along with other relatives reached the house of the informant at about 1:30 am on 30/08/2021. The informant was called outside the house. The applicant assaulted the informant by iron rod on his leg. He sustained bleeding injury. It is alleged that the uncle of the applicant also assaulted the informant by sharp edged weapon and he sustained injury. Thereafter the informant lodged report.

04] It is contended that accused Nos.1, 2, 3, 5 & 7 are already released on bail. It is contended that investigation is already over. It is also contended that original accused No.7 Nahid Anjum is wife of the informant. She has filed an application under the Domestic Violence Act before the Court of Judicial Magistrate First Class, Digra. In the said proceedings, there were talks of settlement and in pursuance thereof, the informant took accused No.7 for cohabitation and thereafter this incident had taken place. It is contended that in order to pressurize the applicant and his family members, this false case has been filed. It is contended that the custodial interrogation of the applicant is no more required. The applicant is studying in the college. Hence, it is contended that the applicant be released on pre-arrest bail.

05] Notice of this application was issued to the non-applicant/State. The learned A.P.P. has filed reply to this application. It is contended that the offence is serious in nature. There are specific allegations against the applicant,

who used weapon to assault the informant. The said weapon is required to be recovered at the instance of the applicant. In the assault, the informant has sustained grievous injury on his leg. Therefore, the custodial interrogation of the applicant is required. The investigation is not yet completed. Therefore, the application be rejected.

06] Heard the learned Counsel for the applicant and the learned A.P.P. on behalf of the State. Perused the F.I.R.. It appears that the incident had taken place in the midnight. It is alleged that six persons assaulted the informant by sharp edged weapon and iron rod. There are specific allegations against the applicant that he assaulted the informant by iron rod on his leg. There is a grievous injury on the leg of the informant. The said allegations are required to be appreciated in the background of the litigation between the informant and his wife. It appears that there was matrimonial discord in between the informant and his wife. Therefore, his wife has filed application under the Domestic Violence Act before the Court of J.M.F.C. at Digra. The said proceeding is pending. It appears that in the said proceeding, settlement was arrived at and in pursuance thereof, wife of the informant came to her matrimonial house for cohabitation and thereafter within a short period, the alleged incident had taken place. It is the case of the applicant that in order to pressurize them for withdrawal of the application filed by the wife of the informant, they have been falsely implicated. The alleged incident had taken place in the night of 29/08/2021 and except the present applicant, the other

accused persons have been arrested. Original accused Nos.1,2,3,5 & 7 have already been released on bail. It appears that the investigation is almost completed. Therefore, no purpose would be served by keeping the applicant behind the bar.

07] In view of the dispute between the parties, I am inclined to release the applicant on pre-arrest bail with conditions so that the Investigating Officer can take over the weapon of assault, if any. With this, I proceed to pass the following order :

- i. The application is allowed.
- ii. In the event of arrest of the applicant in Crime No.695/2021, registered with Police Station Yavatmal City, the applicant is directed to be released on bail on his executing a P.R. Bond in the sum of Rs.15,000/- (Rupees Fifteen Thousand Only) with a solvent surety in the like amount.
- iii. The applicant shall attend the concerned Police Station everyday in between 10:00 am and 12:00 p.m. for 15 days from 17th January, 2022.

JUDGE

**sandesh*