

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

CRIMINAL APPLICATION (BA) NO. 1248 OF 2022

SUSHANT S/O. MANOHAR BHARRE

.VS.

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 Rajnish Vyas, Advocate for the applicant

Mr S. D. Sirpurkar, APP for State

CORAM : G.A. SANAP, J.

DATE : NOVEMBER 18, 2022.

The applicant/accused No.2 was arrested on 04.10.2022 in a crime bearing No. 465 of 2022 registered at Bramhapuri Police Station for the offences punishable under Sections 307, 324, 504 read with Section 34 of the Indian Penal Code. He has applied for regular bail under Section 439 of the Code of Criminal Procedure.

2. According to the applicant, the crime bearing No. 466 of 2022 was registered on the basis of his report against the four persons for the offences punishable under Sections 307, 324, 504 read with Section 34 of the Indian Penal Code. His father was seriously injured and has undergone surgery. He has been remanded to judicial custody. His detention is not necessary for the investigation or custodial interrogation. The applicant and his father were assaulted by the informant

and remaining three accused. They sustained serious injuries. His father has applied for anticipatory bail. The investigation is in progress. But for this reason he cannot be denied bail. He is ready to abide by the conditions that may be imposed by the Court.

3. The State through investigating officer has filed the reply and opposed the application. It is contended that there are cross FIRs. The investigation is in progress. There is rivalry between two groups. The possibility of occurrence of the similar incident in future can't be ruled out if the applicant/accused No.2 is released on bail. The facts stated in the FIR have been fully supported by the medical evidence. No case has been made out for bail at this stage. The possibility of the applicant/accused No.2 threatening or pressurizing the informant and witnesses cannot be ruled out.

4. I have heard the learned Advocate for the applicant and the learned APP for the State. Perused the record and proceedings.

5. The applicant was arrested on 04.10.2022. He has been remanded to judicial custody. It is not the case of the prosecution that either for the purpose of recovery or discovery of any article or for custodial interrogation or for any other purpose his detention is warranted. It is seen on

perusal of the record that there are counter FIRs. The informant in this crime is accused with three others in Crime No. 466 of 2022. Nothing is placed on record either by this accused or by the prosecution about the arrest of the informant and remaining accused in Crime No. 466 of 2022.

6. Be that as it may, the material placed on record at this stage clearly indicates that for the purpose of investigation the detention of the applicant is not necessary. Both the parties in the counter FIRs are facing the similar charges. In the fact situation, detention of the applicant/accused No.2 in the jail may amount to pre-trial conviction. The applicant/accused No.2 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 -Sushant Manohar Bharre shall be released on bail in connection with Crime No. 465 of 2022, registered with Bramhapuri Police Station, for the offences punishable under Sections 307, 324 504 read with Section 34 of the Indian Penal Code, 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