

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

CRIMINAL APPLICATION (BA) NO.09 OF 2023

(Besan @ Sourabh s/o Suresh Masram Vs. The State of Maharashtra)

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

Court's or Judge's Order

Shri C.R. Thakur, Advocate for the applicants.
Shri A.M. Kadurkar, APP for the non-applicant/State.

CORAM:- URMILA JOSHI-PHALKE, J.
DATED :- JUNE 08, 2023.

Heard.

2. Present application is filed by the applicant for grant of bail under Section 439 of the Code of Criminal Procedure in connection with Crime No.135/2022 registered at police station Nagpur City for the offence punishable under Sections 307, 384, read with Section 34 of the Indian Penal Code and Section 4/25 of the Arms Act, 1959 and Sections 135 and 142 of the Maharashtra Police Act, 1951.

3. The accused is arrested on 25/04/2022, since then he is in jail.

4. The crime is registered on the basis of report lodged by Bhupendra Pali on an allegation that on 21/04/2022 at about 9.00 to 9.30 p.m. when informant was sitting near the Shitala Mata Mandir at that time the applicant along with other co-accused came on their two-wheeler by saying that he is extern from the Nagpur and demanded the amount from the informant. As the

informant declined to pay the amount, he took out the knife and gave blow of knife on abdomen and his right shoulder. Due to the said blows injured has sustained grievous injuries and the applicant fled away from the spot of incident. On the basis of said report, police have registered the crime against the present applicant.

5. As per the contention of the applicant since the date of his arrest he is in jail. Now investigation is completed and the charge-sheet is filed. The injured is also discharged from the hospital and leading his normal life.

6. It is further the contention of the applicant that he is implicated falsely due to the previous dispute. In fact, the informant has caused the damage to the household articles by entering into his house and also threatened his family members. Now the investigation is completed and the charge-sheet is filed. Further custody of the applicant is not at all required and hence he be released on bail.

7. Said application is strongly opposed by the State on the ground that the applicant is having criminal antecedents by order dated 17/01/2022 passed by Deputy Commissioner of Police, Zone-4, Nagpur (city). The present applicant was extern from the Nagpur (City) and Nagpur (Rural) are for the period of 6 months i.e. upto 17/07/2022. But the present applicant on 22/04/2022 by contravening the said order entered into the City and committed offence. Thus, the applicant has committed

an offence when he was extern. Even 16 offences were registered against the applicant. There is every possibility that he will commit such type of similar offence and it will be difficult to secure his presence in the trial and prayed for rejection of the application.

8. Heard learned Counsel for the applicant. He reiterated the contention and submitted that the applicant is ready to abide by all the conditions imposed by this Court. He will stay out of the Nagpur City till conclusion of the trial. He further submitted that the investigation is completed and the Court has to consider the circumstances in which the alleged incident has taken place. In fact, the informant has caused loss to the household articles by entering into the house of the applicant and also threatened his family members. Now the investigation is completed and the charge-sheet is filed hence further custody of the present applicant is not required and he will abide by all the conditions imposed by this Court.

9. *Per contra*, learned Additional Public Prosecutor reiterated the contention and submitted that if applicant is released on bail, he will tamper with the prosecution evidence and will not be available for the trial.

10. Heard both the sides and perused the investigation papers. From the recitals of the FIR, it is apparent that the applicant came at the spot of incident along with the weapon like knife and demanded the

amount from the informant and gave blow by the deadly weapon like knife. It is further apparent that at the relevant time of the incident, the applicant was extern and prohibited from entering into the limit of the Nagpur City but he contravened the said order and entered in the city and committed an offence. Criminal antecedents are against the applicant which shows that in all 16 offences are registered against the present applicant which are in the nature of assault and injuries. Similar type of offence was initially registered under Section 307, 384 read with Section 34 of the Indian Penal Code. The apprehension raised by the Prosecution sustainable.

11. In view of the criminal antecedents which are apparent from the record, the apprehension raised by the prosecution deserves to be accepted that if the applicant is released on bail there is every likelihood that he will tamper the prosecution evidence.

12. In view of above reasons recorded, the applicant has not made out the case for grant of bail and the application deserves to be rejected.

13. In view of that the application is hereby rejected.

14. The trial is expedited.

(URMILA JOSHI-PHALKE, J.)