

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

CRIMINAL APPLICATION (BA) NO.12 OF 2023
(Vikas alias Vishal Bhaskar Khanjode .vs. The State of Maharashtra and one)

Office Notes, Office Memoranda of Coram, Appearances, court's orders or directions and Registrar's orders	Court's or Judge's orders
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Mr. A.D. Raut, Advocate for applicant,
Mr. M.J. Khan, APP for non-applicant no.1-State,
Ms. Mohini Sharma, Advocate (Appointed) for non-applicant no.2.

CORAM : ANIL L. PANSARE, J.
DATE : MARCH 13, 2023.

. Heard learned counsel for the parties.

2. This is an application under Section 439 of the Code of Criminal Procedure for grant of bail.

3. The applicant has been arrested on 11.4.2022 in Crime No.153/2022 registered with Police Station Amdapur, Tah. Chikhali, Dist. Buldhana for the offence punishable under Sections 302, 323, 324, 504, 506, 143, 147, 148, 149 read with Section 34 of the Indian Penal Code and Section 135 of the Maharashtra Police Act, 1951.

4. Having heard both the sides and having perused the material placed on record, it transpires that there are five accused namely, Najraanabi, Sheikh Noor, Vitthal Khambayatkar, Sheikh Chand and Vikas @ Vishal Khanzode. According to the prosecution, five persons are responsible for the death of one Mr. Yogesh Bhagwan Sormare, the cousin brother of the informant. The incident occurred on 5.4.2022. Nazrana Be held the collar of the informant and assaulted with sticks and slapped him on his face. The informant and his bother made an attempt to intervene and pacify accused nos.1 and 2. Both were assaulted by the accused persons. Nazrana Be Sk. Noor assaulted deceased on his head by means of iron rod. Sheikh Noor, Sheikh Chand, Vitthal and Vikas assaulted informant and the brother by means of sticks, but on other parts of the body, not on head.

5. The brother of the deceased was hospitalized, but succumbed to the injuries after some days. The cause of the death is head injury.

6. The learned counsel for the applicant has invited my attention to order dated 7th December, 2022 passed by this Court in Criminal Application (BA) No.1338/2022. The similarly placed accused Vitthal has been released on bail.

7. Thus, the applicant is not the author of head injury. The charge-sheet has been filed. The charges have not yet been framed. It will take time to commence and conclude the trial. In view of above and considering the nature of evidence against the applicant, so also the presumption that the person accused of commission of a crime is considered innocent until proven guilty, in my considered view, no fruitful purpose will be served by keeping applicant behind the bars. The interest of the prosecution can be protected by putting the applicant to appropriate terms.

8. In view of above and considering the role of applicant and role of Vitthal, the applicant is entitled to be released on bail on the ground of parity.

9. The observations made in this order are prima facie and are made for deciding the present application only. The learned trial Court shall not get influenced by the above observations.

10. Resultantly, following order is passed :

(i) The application is allowed.

(ii) Applicant-Vikas alias Vishal Bhaskar Khanjode be released on bail, in Crime No.153/2022, registered with Police Station, Amdapur, District Buldhana for an offence punishable under Sections 302, 323, 324, 504, 506, 143, 147, 148, 149 read with Section 34 of the Indian Penal Code and Section 135 of the Maharashtra Police Act, 1951, on he furnishing PR. Bond in the sum of Rs.50,000/- with one or two solvent sureties in the like amount.

(iii) The Applicant shall, at the time of execution of bond, furnish his address and telephone/mobile number(s) to the Investigating Officer and the Court concerned and shall not change the residence till the final disposal of the case.

(iv) The applicant shall regularly attend the court and cooperate the learned trial Court to complete the trial for the above offences. The applicant shall not seek adjournments, except under extreme circumstances to the satisfaction of the trial Court.

(v) The Applicant shall not directly or indirectly make any inducement, threat or promise to any witness acquainted with the facts of the case so as to dissuade him/her from disclosing such facts to the Court or any Police Officer.

(vi) The Applicant shall maintain law and order.

(vii) In case of breach of any conditions, the learned trial court is at liberty to cancel the bail after giving opportunity of hearing to both the sides.

11. The application is disposed of in the above terms.

(ANIL L. PANSARE, J.)

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