

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

CRIMINAL APPLICATION (BA) NO.59 OF 2023

Rajesh Bhanudas Uike Vs. State of Maharashtra, PSO, PS Lohara, Dist. Yavatmal

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's Orders.

Court's or Judge's orders.

Shri M.N. Ali, Advocate for applicant.
Shri I.J. Damle, APP for non-applicant/State.

CORAM : ANIL L. PANSARE, J.
DATE : FEBRUARY 17, 2023.

This is an application under Section 439 of the Code of Criminal Procedure (for short "Cr.P.C.").

2. The applicant has been arrested on 08.12.2022 in Crime No.314/2022 registered with Police Station, Lohara, District Yavatmal for the offence punishable under Sections 143, 147, 148, 149, 294, 506 and 307 of the Indian Penal Code and Section 135 of the Maharashtra Police Act.

3. Having heard both sides what transpires is that the applicant and his friends had been to dinner at Rashid Dhaba. Informant and his friends were sitting at the nearby table. The applicant and his friends were talking loudly. Therefore, one of the friends of informant made a request to the applicant and his friends to lower the voice. The informant followed his friend. Thereafter, quarrel occurred on this count. One of the friends of the applicant Tavan Shah assaulted the informant on head by glass bottle. The informant sustained head injury.

The applicant and others have allegedly beaten the informant by kick and fist blows. Someone assaulted informant on his right hand. The friends of the informant took him to the hospital. The applicant and his friends followed them at the hospital and have caused stab injury to one of the friends of the informant. Thus, it is alleged that the applicant and the co-accused have formed unlawful assembly and have assaulted informant to cause grievous injuries.

4. I have perused the FIR and the case diary. It appears that the applicant is not named in the FIR. It further appears that he has not been subjected to test identification parade. One of the witnesses i.e. Gitanand Bankar has taken the name of the applicant but has not assigned specific role to the applicant except for stating that the applicant and others have assaulted the informant. The head injury or the stab injury has not been caused by the applicant. Thus, general allegations are made against the applicant.

5. The FIR has been lodged on 07.12.2022. The date of incident is 05.12.2022. The charge-sheet has is not filed. Nothing is to be recovered from the applicant.

6. When enquired of the antecedents, learned advocate for applicant submits that there are no criminal antecedence against the applicant. He further submits that the applicant is working as apprentice at veterinary hospital, Yavatmal.

7. In view of above and considering the nature of allegations against the applicant, through learned A.P.P. has opposed the application, no fruitful purpose will be served by keeping him behind the bars. The interest of prosecution can be protected by putting the applicant to appropriate terms.

8. The observations made in this order are *prima facie* in nature and are made for deciding the present application only. The learned trial Judge shall not get influenced with the above observations.

9. Resultantly, the following order is passed.

ORDER

- (i) The application is allowed.
- (ii) Applicant-Rajesh Bhanudas Uike, be released on bail, in connection with Crime No.314/2022 registered with Police Station, Lohara, District Yavatmal for the offence punishable under Sections 143, 147, 148, 149, 294, 506 and 307 of the Indian Penal Code and Section 135 of the Maharashtra Police Act, on he furnishing P.R. Bond in the sum of ₹25,000/- with one solvent surety 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 attend Police Station as and when called by the investigating officer, till filing of the charge-sheet and shall cooperate the investigating officer. Further, after commencement of the trial, 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.

The application is disposed of in the above terms.

JUDGE

Wagh