

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**NAGPUR BENCH : NAGPUR****CRIMINAL APPLICATION (BA) NO. 84/2023**

Mohd. Rehan Mohd. Aslam Ansari .vs. The State of Maharashtra through PSO PS.
Koradi, Dist. Nagpur.

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

Court's or Judge's orders

Mr. C. R. Thakur, Advocate for applicant.
Mr. I. Damle, A.P.P. for non applicant-State.

CORAM : ANIL L. PANSARE, J.

DATE : FEBRUARY 16, 2023.

Heard.

2. This is an application under Section 439 of the Code of Criminal Procedure, 1973 (For short, "The Code"). The applicant has been arrested on 28.09.2022 in Crime No.275/2022, registered with Police Station, Koradi for an offence punishable under Section 307 of the Indian Penal Code, 1908 read with Section 3/25 of the Arms Act, 1959.

3. Briefly stated, the case of the prosecution is that the applicant and informant were friends. They started hotel business in the name and style as 'Hotel Sanjari Taj'. Some times on or about 12.06.2021, there occurred quarrel between the two. The applicant asked the informant to leave the business. The applicant assured the informant that he will pay Rs.35,00,000/-. The applicant, from time to time, paid an amount of Rs.20,00,000/- approximately to the informant. However, the balance amount was not paid. On 25.09.2022, the informant and his wife came to the house of the applicant for recovery of the balance amount. There occurred altercation between the two. The applicant is said to have fired bullet at the informant,

but was misfired. The applicant again loaded the pistol and pointed against the chest of the informant. Both got indulged in scuffle. The wife of informant intervened. Thereafter, the informant and his wife went away.

4. Learned A.P.P. vehemently opposed the request of the applicant for grant of bail. He submits that there is strong evidence against the applicant which depicts involvement of the applicant in the crime. Learned A.P.P., therefore, submits that the applicant should not be released on bail.

5. Two friends were together in the business but have now landed up in dispute. The applicant is said to have made an attempt to commit murder of the informant. However, no injury is caused. The country-made pistol is recovered. The evidence has been collected against the applicant and charge-sheet has been filed. Thus, nothing is to be recovered from the applicant. As stated earlier, no injury has been caused to the informant or his wife. The charge is not yet framed. It will take time to commence and conclude the trial.

6. When inquired about the antecedents, learned counsel for the applicant submits that there are no antecedents. The applicant is not habitual offender. The foundation of dispute is payment of money. Learned counsel for the applicant submits that the applicant owns immovable property and therefore there are strong roots in the locality. In the circumstances, no fruitful purpose would be served by keeping the applicant behind the bar. Interest of the prosecution can be protected by putting the applicant to appropriate terms.

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

8. Resultantly, following order is passed.

ORDER

- (i) The application is allowed.
- (ii) Applicant – Mohd. Rehan Mohd. Aslam Anasri, be released on bail in Crime No.275/2022, registered with Police Station Koradi, Nagpur, for the offences punishable under Section 307 the Indian Penal Code, 1908 and Section 3/25 of the Arms Act, 1949, on he executing P.R. Bond in the sum of Rs.50,000/- 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 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.
- (v) The applicant shall not obstruct or hamper the police investigation and shall not play mischief with the evidence collected or yet to be collected by the Police.
- (vi) The applicant shall maintain law and order.
- (vii) The applicant shall surrender his Passports, if any, before the investigating officer within a period of one week from today.

(viii) 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.

(Anil L. Pansare, J.)

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