

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

CRIMINAL APPLICATION (BA) NO.136 OF 2023
(Suresh RumaSingh Bhaidya Vs. 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 S.V. Sirpurkar, Advocate for the applicant.
Shri I.J. Damle, APP for State.

CORAM:- URMILA JOSHI-PHALKE, J.
DATED :- JUNE 28, 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.90/2022 registered at police station Sonala, District Buldhana for the offence punishable under Sections 143, 146, 147, 148, 302, 120B, 323, 324 and 506 read with Section 149 of the Indian Penal Code.

3. The applicant is arrested on 17/05/2022. Since then he is in jail.

4. The accusation against the present applicant is on the basis of report lodged by one Sandip Ganram Waskela. As per the allegation, on 13/05/2022 at about 9.30 p.m. he along with his brother Ravi Ganram Waskela, Karan Waskela and Arjun Waskela have attended the marriage of daughter of one Mahadev Bamnya. At about 1.50 a.m. they were returning from the marriage, at the relevant time the co-accused Naran Gumansingh Bhaidya

came from the back side along with the present applicant and the co-accused gave a blow of stick on the head of his brother. Due to which he sustained the injuries. As per the allegation in the First Information Report (FIR) against the present applicant that at the relevant time present applicant hold both the hands of his brother. On the basis of said report, police have registered the crime against the present applicant. As per the contention of the present applicant merely because he was along with Naran Gumansingh Bhaidya i.e. the co-accused, he is implicated falsely in the alleged offence.

5. Now the investigation is completed and the charge-sheet is filed.

6. Considering the role attributed to him, his further custody is not required. He will cooperate the investigation agency and will abide all the conditions imposed by this Court.

7. Said application is strongly opposed by the State on the ground that in furtherance of common intention both the accused have committed the offence which is serious in nature, and therefore, the application deserves to be rejected.

8. Heard learned Counsel for the applicant. He reiterated the contention and submitted that even the allegations are taken as it is, only the role attributed to the present applicant that he hold the hands of the deceased at the relevant time. Merely because present applicant

has hold the hands, is not sufficient to show that he was sharing the common intention. He further submitted that now the investigation is completed. For considerable period, the applicant is in jail. Considering the same, he be released on bail.

9. Learned Additional Public Prosecutor vehemently submitted that considering the gravity of the offence, the application deserves to be rejected.

10. Having heard both the sides and on perusal of the investigation papers admittedly, there is no allegation that the present applicant was holding any weapon or gave a blow by the weapon. Only allegation against the present applicant is that he was holding the hands of the deceased when deceased was assaulting by the co-accused. Now investigation is completed and the charge-sheet is filed.

11. Considering the role of the present accused his further custody is not required. For considerable period he is in jail and no purpose will be served by keeping him behind bar. In view of the above reasons recorded, the application deserves to be allowed. Accordingly, I pass the following order :

(i) The application is allowed.

(ii) The applicant - Suresh RimalSingh Bhaidya in connection with Crime No.90/2022 registered at police station Sonala, District Buldhana for the offence

punishable under Sections 143, 146, 147, 148, 302, 120B, 323, 324 and 506 read with Section 149 of the Indian Penal Code, be released on bail on executing PR. Bond in the sum of 25,000/- (Rs. Twenty five thousand) with one surety in the like amount.

(iii) The applicant shall attend the trial Court regularly without seeking any exemption.

(iv) The applicant shall furnish his cell phone number and address along with address proof.

(v) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case and shall not tamper the prosecution evidence.

(URMILA JOSHI-PHALKE, J.)

**Divya*