

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

CRIMINAL APPLICATION (BA) NO. 169 OF 2023

Shubham S/o Ashokrao Kohle

..VS..

State of Maharashtra through P.S. Hinganghat, Dist. Wardha

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

Court's or Judge's orders

Mr. A.K. Sorde, Advocate for applicant.
Mr. I.J. Damle, APP for non-applicant/State.

CORAM : URMILA JOSHI-PHALKE, J.

DATED : JUNE 13, 2023

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.522/2021, registered with Police Station Hinganghat, District Wardha for the offence punishable under Section 397 read with Section 34 of the Indian Penal Code and Sections 4 (25) of the Arms Act.

2. The crime is registered on the basis of report lodged by Gurudeo Kaduji Umare against the unknown persons on an allegations that on 15.06.2021 when he was returned to his village Hinganghat at about 11.30 pm. one two wheeler vehicle was standing in front of Ajanti Bus-stop and one person was sitting to that vehicle, in the back side of the said Bus-stop three persons aged about 20 to 25 years came there and they restrained him and shown the deadly weapons like

Sattur and snatched the cash amount from him as well as the informant was also assaulted by the said persons. On the basis of said report, crime is registered against the four unknown persons. As the present informant sustained injuries, he was referred to the medical examination and it reveals that injuries are simple in nature. After registration of the crime, the investigation started and during investigation the Investigating Officer has arrested the present applicant. The present applicant was also put forth identification parade and the informant has not identified him. As per the contention of the present applicant, nothing is recovered from him as well as he has not identified by the informant thus, no incriminating materials is revealed against the present applicant during the investigation. He is arrested merely on suspicion and hence he be released on bail. He will abide by all the conditions imposed by this Court.

3. Said application is strongly opposed by the State on the ground that on the same day present applicant is involved in similar type of three offences. There are previous criminal antecedents against the present applicant and he has committed similar type of offences in the past also. If he is released on bail, he would be involved in similar type of offences hence, the application deserves to be rejected.

4. Heard learned counsel for the applicant. He reiterated the contentions that nothing is recovered from the present applicant as well as the informant has not identified to him. Thus, no material is available against the present applicant to connect with the alleged offence hence, he be released on bail.

5. Per contra, the learned APP submitted that though the present informant has not identified the present applicant but in connected crimes, the other informants and the injured identified the present applicant thus, the involvement of the present applicant is revealed. During the investigation there are previous criminal antecedents and therefore the application deserves to be rejected.

6. Having heard both the sides and on perusal of the record it reveals that admittedly, the crime is registered against the unknown persons and during investigation the involvement of the present applicant revealed to the Investigating Officer. During investigation, the Investigating Officer has recorded relevant statements of the witnesses. It is further apparent from the investigation papers that though present applicant is put in an identification parade, he was not identified during the investigation. Statement of the present applicant under Section 27 of the Evidence Act is also recorded by the Investigating Officer and in perusal of the said statement, it reveals that the police have visited his house and from his house, one golden Mangalsutra having

golden beads worth of Rs.10,000/- is recovered from him. During his personal search also one knife was recovered from the present applicant. Thus, *prima facie* material is on record to show the involvement of the present applicant with the alleged offence. Though the present informant has not identified the applicant but in connected crimes, the other informants who have lodged the report regarding incidents which took place on the same day identified the present applicant. It is further apparent that when the accused was released from the jail during the Covid period in view of guidelines issued by the Hon'ble Apex Court, he has committed similar type of offences.

7. Considering the entire material on record, the apprehension raised by the prosecution that if the applicant/accused is released on bail, he would be involved in similar type of the offences. Considering the *prima facie* material against the present applicant and there is likelihood of committing similar type of the offences by the present applicant, the present application deserves to be rejected. Now charge-sheet is already filed and trial can be proceed in due period. Accordingly, I proceed to pass the following order :

The Criminal Application (BA) No. 169 of 2023 is rejected.

CRIMINAL APPLICATION (APPP) NO.328/2023.

In view of disposal of the bail application, this application does not survive hence it is disposed of.

(URMILA JOSHI-PHALKE, J.)

Kirtak