

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

CRIMINAL APPLICATION (BA) NO.204 OF 2023

Bobby s/o Gautam Nikose Vs. State of Maharashtra, Police Station, Ajani, Nagpur

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

Court's or Judge's orders.

Ms S.D. Paul, Advocate for applicant.
Shri S.S. Doifode, APP for non-applicant/State.

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

Learned APP has tendered reply across the bar, which is taken on record and marked as 'Article-A'.

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

3. The applicant has been arrested on 29.12.2022 in Crime No.836/2022 registered with Police Station, Ajani, Nagpur City, Nagpur for the offence punishable under Section 307 read with Section 34 of the Indian Penal Code.

4. Having heard and having gone through the material placed before me, the accusation against the applicant is that on 29.12.2022, he alongwith Monu Nikose have assaulted the informant by means of wooden stick. My attention is invited to the FIR, the informant has stated that on 29.12.2022 at about 05:15 pm informant saw that the applicant was riding a moped. The co-accused Monu Nikose was pillion rider and was holding in his hand a big wooden stick. The informant made an attempt to run away but his e-rickshaw

stopped near Gangaur hotel. The co-accused Monu has then assaulted informant and inflicted multiple injuries on his head, back and leg, wrists etc. by means of the wooden stick. The people gathered. Monu Nikose and applicant fled-away on moped.

5. Learned counsel for the applicant has rightly argued that the applicant has not authored a single injury. The role assigned to him is that he was riding the moped and nothing else.

6. Learned APP however submits that the applicant has abated the crime.

7. I have gone through the case diary, the injury report indicates that the informant suffered six injuries, of which four appears to be simple and two grievous. The grievous injuries are on wrist and knee.

8. Learned APP submits that these are fracture injuries. He further submits that the informant was hospitalized for three days.

9. Thus, it appears that the applicant has not authored any injury. The role assigned to him is of riding the moped and nothing else. He has not taken any active part in the crime.

10. The charge-sheet is filed. The charge is not yet framed. It will take time to commence and conclude the trial. On enquiry of antecedences, the learned advocate for

the applicant submits that there are no criminal antecedence against the applicant. The applicant is staying since long at the address given in the application.

11. In the circumstances and considering the peculiar facts of the case 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 the applicant behind bars. The interest of the prosecution can be protected by putting the applicant to appropriate terms.

12. 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.

13. Resultantly, the following order is passed.

ORDER

- (i) The application is allowed.
- (ii) Applicant- Bobby s/o Gautam Nikose, be released on bail, in Crime No.836/2022 registered with Police Station, Ajani, Nagpur City, Nagpur for the offence punishable under Section 307 read with Section 34 of the Indian Penal Code, on he furnishing P.R. Bond in the sum of ₹25,000/- with one or two 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 same 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.

The application is disposed of in the above terms.

JUDGE

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